

THE BRITISH AND FOREIGN ANTI-SLAVERY REPORTER;

UNDER THE SANCTION OF THE BRITISH AND FOREIGN ANTI-SLAVERY SOCIETY.

XXXVI. Vol. II. No. 9.]

WEDNESDAY, MAY 5TH, 1841.

[PRICE THREEPENCE.]

CONTENTS.

| | | | |
|--------------------------------------|----|---------------------------------------------|----|
| Advertisements | 81 | British Guiana | 87 |
| Slavery in British India, No. 4. — | | LEADERS: Sugar Duties | 88 |
| Signs of the Times, No. 3.... | 84 | Imperial Brazilian Mining Association | — |
| Admission of Slave-grown Sugar | 85 | Jamaica Riots..... | — |
| Tidings from Cuba..... | — | General Harrison | 89 |
| British Guiana | 86 | Contributions | 89 |
| Jamaica | 87 | Trial of the Amistad | — |

BRITISH & FOREIGN ANTI-SLAVERY SOCIETY,

For the Abolition of Slavery and the Slave Trade throughout the world.

THE ANNUAL MEETING OF THIS SOCIETY

IS TO BE HELD IN

EXETER HALL, on FRIDAY, May 14th, 1841.

The Chair will be taken at Eleven o'Clock precisely. The doors will be open at Ten.

J. H. TREDGOLD, Secretary.

Tickets of Admission may be obtained on application to Harvey and Darton, 55, Gracechurch-street; Edmund Fry, 4, Bishopsgate-street; Hatchard and Son, 187, Piccadilly; Nisbet and Co, 21, Berners-street; J. Clark, 13, Moorgate-street; Thomas Ward and Co., 27, Paternoster Row; Joseph Sterry and Sons, 156, High-street, Borough; and at the Society's Office, 27, New Broad-street.

Just Published, Price Twopence, 20 closely printed pages,

ONEIDA AND OBERLIN; or, A CALL addressed to BRITISH CHRISTIANS AND PHILANTHROPISTS, affectionately inviting their sympathies, their prayers, and their assistance, in favour of the Christians and Philanthropists of the UNITED STATES OF NORTH AMERICA, for the extirpation, by our aid, of that Slavery which we introduced into those States while they were under our power. By CHARLES STUART.

Published by Wright & Albright, Bristol, and Sold by Tanner, Brothers, 6, Amen Corner; Hamilton, Adams & Co.; and Edmund Fry, London; Johnstone, Edinburgh; and Gallie, Glasgow.

SLAVERY IN BRITISH INDIA. No. IV.

THE SLAVE TRADE.

IN connexion with the system of slavery in India, there has ever been an extensive slave trade carried on; and so great was this vile commerce in 1774, that regulations were issued to check it. The substance of these regulations was, that all persons were prohibited from selling or buying a slave who had not already been proven such by legal purchase (Par. Pap. 1828, *Slavery in India*, pp. 2, 3). The evil, however, still continued, when, in 1786, Lord Cornwallis issued a proclamation, in which he stated, that any person "convicted of carrying on, or aiding or abetting the barbarous traffic, would be certain of meeting with the most exemplary punishment." (*Ibid.* p. 19). But it was not until the year 1811, that any law was passed by the Indian government for the repression of the sale of human beings, when, at the suggestion of a native, Dushrut Sing, an officer of the Rajah of Nepal, the celebrated regulation 10, of 1811, declared the importation of slaves, by land or sea, into places immediately dependent on the presidency of Fort William, to be strictly prohibited; and affixed the penalty of six months' imprisonment, and a fine not exceeding 200 rupees, to the offence. The slaves to be released.

In 1812, it was decided that this regulation did not affect the case of slaves brought by their owners from foreign provinces, *unless for sale*, nor was it applicable to the sale of slaves legally held within the British provinces; but only to the sale of slaves imported into them for that special purpose (*Ibid.* p. 135). In this view, the governor in council concurred. Instructions were forwarded the same year to the government of Madras and Bombay, recommending a similar regulation to be issued, and at the same time calling attention to the Act, 51 Geo. III. cap. 23, for the more effectual suppression of the slave trade, observing "that the provisions of that Act would effectually restrain the importation of slaves into the British territories by sea" (*Ibid.* p. 142).

The advocate-general of Fort St. George, Mr. Anstruther, gave it as his opinion that this Act applied, "in all its consequences and penalties, to all persons residing within the King's or Company's territories, including therefore, the native subjects of their government" (*Ibid.* p. 715). It does not appear, however, that any regulation was issued in the Madras presidency, to prevent the importation of slaves.

In 1823, we perceive by an extract from a proposed regulation respecting slavery, "that the kidnapping of children, and selling them as slaves, is an offence now cognizable, and punishable on conviction by the criminal courts" (Par. Pap. 138, 1839, p. 326).

The government of Bombay issued a regulation No. 1, of 1813, similar to the Bengal regulation 10, of 1811, the character of which has already been described.

In 1826, the government of Madras issued regulation 2, of that year, which contained "provisions for the punishment of the offence of carrying away or removing, from any country or place whatsoever, any person or persons as slaves, or for the purpose of being sold or dealt with as a slave or slaves." This regulation was designed to prevent the export of slaves from India to foreign states (Par. Pap. 138, 1839, p. 331).

Up to the year 1832, the law relative to the external slave-trade or importations of slaves by sea into the Company's territories, appeared to have been subject to the provisions of the English, statute, and the importations by land to regulation 10, of 1811, which simply forbade their introduction for purposes of traffic. In that year its provisions were extended to the newly-acquired territory of Assam, "and such other provinces as have or may become dependent" on the presidency of Fort William (Par. Pap. 138, 1839, p. 339).

It is a very remarkable fact, that, whilst the law officers at Fort St. George and Fort William widely differed in the interpretation of the Act, 51, Geo. III. cap. 23, against the slave-trade; and the true extent and meaning of that statute was discussed by judges, magistrates, and councils, during a period of twenty years, viz., from 1812 to 1832, the governments of Madras, Bengal, and Bombay, completely overlooked the fact that that statute was repealed in 1824, by the Act, 5 Geo. IV. cap. 113, now known as the Consolidated Slave Trade Abolition Act. The only reference we find to its existence in the papers relative to slavery in India, is in a minute of Mr. Colebrooke's, in 1826 (Par. Pap. 138, 1839, p. 310); and in an opinion of Mr. Norton's (*Ibid.* p. 377). But, practically, this was of no importance; for, as the provisions of the 51 Geo. III. cap. 23, for the punishment of offenders against its enactments were of such a nature as to render the Act "a dead letter everywhere in the Madras territory, except at the presidency" (Par. Pap. 128, 1834, p. 32); so those of 5 Geo. IV. cap. 113, would, from their similarity, and the inattention or indifference of the executive in India to the subject, or its indisposition to adapt them to the end proposed, have led to the same result. And with respect to the regulation 10, of 1811, of which so much has been said, we are told, "it was rendered nugatory in its effects, from the impossibility of ascertaining the purpose for which slaves are imported" (Par. Pap. 138, 1839, p. 343). To what can we attribute this but to the *vis inertia*, of which Mr. Campbell so justly complains, "hostile to all change . . . in the local government of India?" (*Ibid.* p. 36) And how loudly does it call for the authoritative interference of the government of this country, to enforce the laws of the imperial legislature.

Having thus briefly referred to the state of the law for checking the external and internal slave-trade of British India; and having seen that, in consequence either of its want of adaptation to the existing state of things in India, or of proper regulations to enforce its penalties, the British statute was almost a dead letter; and that the regulation 10, of 1811, from the interpretation put upon it, was rendered all but nugatory, we propose to take a rapid glance at the sources of supply, and the mode in which the nefarious traffic has been, and still is carried on, and by which the system of slavery is extended and perpetuated in that part of our empire.

It is evident, that, during the earlier periods of the East India Company's authority in the east, considerable traffic in slaves was carried on, not merely for the supply of its own subjects, but also for the supply of foreign states. There was an external or foreign slave trade, by which the natives of Africa, the Persian Gulf, and the Red Sea, were introduced into British India for sale; and through which native children, collected and purchased in a clandestine manner, were exported for sale to the French islands, and to different parts of India not subject to the Company's jurisdiction. (Par. Pap. No 128. 1824, p. 4, and 1823, p. 13). There was also an extensive internal slave-trade carried on for the supply of the home market.

In 1785, Sir William Jones, in a charge addressed to the grand jury of Calcutta, said, "The condition of slaves within our jurisdiction is, beyond imagination, deplorable; and cruelties are daily practised on them, chiefly on those of the tenderest age and weaker sex, which, if it would not give me pain to repeat, and you to hear

yet, for the honour of human nature, I should forbear to particularize . . . Hardly a man or woman exists in a corner of this populous town, who hath not at least one slave child, either purchased at a trifling price, or saved perhaps from a death that might have been fortunate, for a life that seldom fails of being miserable. Many of you, I presume, have seen large boats filled with such children coming down the river for open sale at Calcutta; nor can you be ignorant that most of them were stolen from their parents, or bought perhaps, for a measure of rice in a time of scarcity." (*East India Slavery*).

The victims of this infamous traffic not only were, but still consist mostly of children, who have been kidnapped, or sold during seasons of dearth and famine. "Great numbers," says Colonel Welsh, "used formerly to be kidnapped from a distance, and sold by dealers for both domestic and agrestic purposes. . . . Many have been, and still are, sold in infancy by parents and relations, particularly in times of famine and scarcity, to any one who will purchase them." (*Ibid.* pp. 4, 28, 31). By these nefarious means the slave population of India, both prædial and domestic, has been recruited from generation to generation, up to the present time.

By the laws now in force in India, viz. 5 Geo. IV. cap. 113, and reg. 10, of 1811, &c., the external slave trade is forbidden—kidnapping is also declared to be a punishable offence. The sale of children, however, except for purposes of prostitution, is not forbidden. Nevertheless, the demand for slaves is so great, the interpretations of the law so various, the indifference or apathy of the Company's servants in many districts so apparent, and the chances of detection so few, that both the external and internal slave-trade are still carried on, it is to be feared to an enormous extent. (*Par. Pap.* 138, 1839, p. 365.)

THE EXTERNAL SLAVE TRADE.

In 1836, the attention of Sir Robert Grant, governor of Bombay, having been drawn to the subject by an able report of the political agent at Kattywar (*Ibid.* pp. 107 to 111), subsequently confirmed by a report of the senior naval officer, Captain Brucks, stationed at Surat, (*Ibid.* pp. 149, 150,) recorded the following minute on the extent of this nefarious traffic, and the necessity which existed for its suppression—"This report confirms the account previously received from the late political agent at Kattywar, of slaves being imported in considerable numbers on this side of India. We must do all in our power to put down this nefarious traffic, but must act with prudence and discretion." (*Ibid.* p. 150). From the reports to which reference has been made, we learn that slaves are imported into British India, through the native states of Kattywar, Cutch, and Scinde, and the Portuguese possessions of Diu, Goa, and Dumaon. A few quotations from the official papers will enable the reader to form some idea of the extent of the evil. The Rana of Porebunder in a communication to Mr. Willoughby, the political agent in Kattywar, says, "Slaves are landed on the coasts of Cutch, and at other ports, where no interruption is shown to the traffic;" (*Ibid.* p. 118) and again "Slaves are imported at all the bunders (ports), for Arab vessels frequent the whole of them; but they are no way interfered with except at my port." (*Ibid.* p. 123). This complaint was made by the Rana of Porebunder, because three vessels from the Maculla coast, having on board seventy-nine slaves, were seized by the British authorities, in consequence of the Rana having been engaged to prevent the importation of slaves for the future; and to detain all vessels arriving at Porebunder, with slaves on board (*Ibid.* p. 108). The slaves seized were Africans, viz., forty-nine boys from four to ten years of age, and thirty girls from five to fifteen years old (*Ibid.* pp. 109, 127, 128). "The poor wretches," says Mr. Reid, "were some of them concealed in boxes and other private places in the hold, which will explain the difficulty my people had in collecting them" (*Ibid.* p. 115). "They were totally naked" (*Ibid.* p. 113). On the same authority we learn, "that about twenty-four unfortunate wretches of the same description were clandestinely landed from a boat here, about the morning of the 30th ult. (October, 1835), and marched to the interior of the province accompanied by two Arabs." (*Ibid.* p. 115). Two female slaves were captured about the same time, and given up to the British authorities by the Jam of Noanugger. (*Ibid.* p. 113).

An export of slaves also from the coast of Kattywar sometimes took place, especially, in seasons of scarcity, of "young girls from five to twelve years of age." (*Ibid.* p. 113). In 1839, a dreadful famine desolated this province. The accounts represented the unfortunate inhabitants as flying by thousands from the country, and parents as selling their children for a few measures of grain! The province of Kattywar is under the protection of the company's government. "Slaves of both sexes from Arabia, Scind, &c. are brought to the bunders for sale in this country." (Umrelee and Okamundel), belonging to his highness the Guicowar. (*Ibid.* p. 141). "The Wadée Arabs carry on a considerable trade with the Suwahil, or the eastern coast of Africa, and bring from thence numbers of negro slaves, whom they dispose of at the various ports in the Red Sea and the Persian Gulf." (*Ibid.* pp. 152, 156). Besides the traffic in slaves carried on by the native chiefs under our protection (and "Arab vessels from both gulfs" are extensively engaged in it) they proceed to the coast of Africa with cargoes, and from thence return with slaves; which are imported into the various places to which reference has been made. We learn from Captain Brucks, that "numbers of slaves are brought in here (Surat), as well as other ports in the Nawaub territory." He also states that from "Diu, a Portuguese settlement, between which and Mozambique, on the coast of Africa, is

a regular trade, four to six brigs are constantly employed in this trade, besides an occasional additional vessel. In all these vessels slaves are imported to that place on the return voyage." In the distribution of these slaves, we learn that "a portion go to the opposite territory, some to Gogah, and others are smuggled into Bombay and Surat." Of the entire slave-trade carried on in these quarters, the same officer states, that a "VERY LARGE PORTION OF THESE SLAVES, THERE IS NO DOUBT, ARE IMPORTED INTO THE BRITISH TERRITORY." (*Ibid.* p. 150).

The demand for African slaves is so very great in Bombay, that, when the children captured at Porebunder were, by order of the executive, transferred there, the senior magistrate of police (Mr. Warden) was fearful of allowing them to go about for exercise, thinking they might be stolen. In a communication to the government secretary on the subject he says, "African children are so valuable in Bombay, that I have been afraid to let them go abroad lest they should be stolen;" a guard, therefore, of "a sufficient number of police peons" was ordered for their protection. (*Ibid.* p. 129).

Another capture of ten Africans, four boys and six girls, from seven to sixteen years of age, forming part of a cargo of eighty or ninety slaves landed at Mandaiie, in Cutch, was made in 1836, and forwarded to Bombay. (*Ibid.* p. 170.) Subsequently to this "a quantity of Abyssinian slaves, male and female," were imported into Bate, in the Guicowar's territories, of whom only four males and four females were secured by the government. (*Ibid.* p. 180.) These gleanings will be deemed sufficient to prove the activity of the African slave-trade with British India, and the inefficiency of all the measures hitherto adopted for its suppression.

But, it may be asked, with such facts brought under its attention, was the government of Bombay content to leave the evil untouched? It would be unjust to affirm this; for we find that Sir Robert Grant not only gave orders to the political agents in Kattywar, Cutch, &c. to prevail upon the governing chiefs to unite with the British authorities in their several states to prevent the slave-trade; but also that he gave orders for a small squadron to cruise along the coasts to prevent it. (*Ibid.* p. 119). In making the latter arrangement Sir Robert found he had exceeded his powers, and was obliged to recall his orders; and although he succeeded with the chiefs under British protection, in obtaining their promise to prevent slave-trading, it is manifest that but little reliance could be placed on their hearty co-operation, inasmuch as it was well known, not only that "the slave-traffic in the Asiatic states is notorious," but that "the commercial prosperity and importance of many of these states depended, in great measure, upon their slave traffic and system of slavery." (*Ibid.* p. 132.) In reviewing the steps which he had taken, Sir Robert Grant observes, in a minute dated 5th July, 1836, "The object is to suppress an inhuman traffic in slaves, carried on within the limits of the coasting trade of our immediate dependents and tributaries, and almost under our own eyes." (*Ibid.* p. 158). But finding how limited were the means at his disposal to suppress it, even "among our allies," he was reluctantly compelled to abandon his plans, and to say the question "must be settled exclusively by the government of India." The important matter was consequently referred to the consideration of the supreme authority; but what became of it after that does not appear. (*Ibid.* p. 159).

Into Calcutta, as well as Bombay, no inconsiderable number of African slaves are, from time to time, introduced by Arab traders. In 1823, the *Calcutta Journal* called public attention to the "slave trade in British India," in a spirited article in which it was indignantly reprobated. "This great capital," said the editor, "is at once the depôt of the commerce and riches of the East, and the mart in which the manacled African is sold, like the beast of the field, to the highest bidder! We are informed," he adds, "that 150 eunuchs have been landed from Arab ships this season, to be sold as slaves in the capital of British India! It is known, too, that these ships are in the habit of carrying away the natives of this country, principally females, and disposing of them in Arabia, in barter for African slaves for the Calcutta market!!" In reference to the eunuchs, to shew the "murderous barbarity resorted to by the wretches engaged in a traffic so revolting to humanity," he states, "a gentleman has informed us that, of 200 African boys emasculated at Judda, only ten survived the cruel operation," (*Ibid.* p. 308). The police magistrates, who really appear to have had no knowledge of the facts of the case, ventured to pronounce the statements in the *Calcutta Journal* to be "grossly exaggerated;" but at the same time admitted, that the only restriction to the importation of slaves into the town, consisted in a rule requiring "a list of their crews and passengers from the commanders of a certain class of ships." This they pronounced a very inadequate means of preventing the slave-trade, the lists required not being "given upon oath, nor any means taken to ascertain their correctness." They also added, "The penalty incurred" under the law then in force "could only be enforced by the detection of the offence, which is attended with much difficulty." They therefore suggested that the Custom House officers should visit such vessels immediately on their arrival at Saugor, "for the purpose of taking down a correct list of every person on board of them;" as if that would have been sufficient to have prevented the traffic from being carried on, (*Ibid.* p. 307). We regret to say, that Mr. Landford Arnot, the editor of the *Calcutta Journal*, gave so much offence to the Bengal government by this exposure of the evil, that he was summarily deported to England, and his paper suppressed!

In June, 1830, the following statement appeared in the *India Gazette*:—"Jewellery, and other articles, to the value of four lacks of rupees, had been offered by an European jeweller for sale to the King (of Oude), who took other merchandise, in the shape of a batch of newly imported Abyssinians, which had been offered for sale and bought by his Majesty. This demands," said the editor, "and we hope will receive investigation; and, if it is properly conducted, and all the obstacles to the prosecution of the offenders be removed, we venture to predict, that it will be found that the importation of slaves continues to be carried on, to an extent utterly disgraceful." No inquiry appears to have taken place; but in June, 1834, we find the chief magistrate of Calcutta addressing Mr. Secretary Bushby, "on the subject of adopting further means of preventing the importation of slaves into Calcutta, and to suggest, for the consideration of his honour, the vice-president in council, that orders should be issued to the pilots, requiring them to take diligent notice, and to report to the police office, every case where they may have good cause to believe that male or female slaves were imported, or might still be in ships. It would appear from a previous communication of the same gentleman to the secretary to the Marine Board, that slaves were introduced "into Calcutta from the Persian gulf and other ports," and admits that, as the police cannot issue search warrants upon vague and general suspicions, vessels might possibly have slaves on board; that, as the slaves themselves cannot complain, and the crew are not likely to do so, therefore "the traffic may go on to some extent . . . without the police knowing any thing about it;" and he requests the board would sanction a general order being issued to the pilots bringing vessels into this port to report to the police, when they might have good cause to believe slaves were on board. The order was granted; but "the board consider," as they stated in their reply to Mr. M'Farlan, that "the pilots cannot be held responsible, should any slaves be landed from any particular vessel," (*Ibid.* pp. 219, 220). Beyond the approval of this measure, no steps whatever appear to have been taken by the governor in council to put down this flagrant abomination.

To what extent the foreign slave trade may be carried on in the presidency of Madras, we find little in the official papers on which we can ground an estimate. Mr. Baber states the domestic slave population of Malabar to consist of the "descendants of outcast persons," of those that have been "kidnapped," and of the "natives of Arabia, but chiefly of Abyssinia" (*Par. pap.* 128, 1834, p. 11). It is quite clear, however, that Mussulmans continually resort to "Hyderabad, and other ports where the traffic is not prohibited," to purchase slaves; and that "Abyssinian slaves are generally their favourite menials" (*Par. pap.* 138, 1839, p. 400). Other intimations are given of this traffic (*Ibid.* pp. 183 to 186): but as it is not quite certain whether the "importations by land" referred to, properly belong to the external or internal slave trade; we merely call the reader's attention to them, leaving it to his judgment to decide to which branch it belongs. "With regard to the Bombay and Madras presidencies, it may be remarked," says Mr. Adam, "that the whole line of the western coast of India, by its proximity to the coast of Africa and Arabia, and to the ports of the Red Sea, presents facilities for importation, which are increased by the existence on the coast of the Portuguese settlements of Goa, Damaun, and Diu, under the flag of which nation the slave trade has continued to be carried on elsewhere" (*Law and Custom of Slavery, &c.* p. 153, 154).

How melancholy the reflections to which the foregoing incidental notices of the slave trade in British India naturally give rise! May we not repeat the remark of the governor general in 1774, and say, "There appears no probable way of remedying this calamitous evil, but by striking at the root of it, and abolishing the right of slavery itself" (*Par. pap.* 1828, East India Slavery, p. 3).

THE INTERNAL SLAVE TRADE.

The sale and purchase of persons legally held as slaves in British India is everywhere permitted, and justified as an incident belonging to that species of property; the sale of children by their parents and relatives, especially during seasons of dearth, is, in like manner allowed. Thousands are, by the latter permission, annually consigned to perpetual slavery.

In connexion with this melancholy fact, we call attention to another equally so, viz., the rapid decrease in the slave population of British India. Mr. Colebrooke, in one of his celebrated minutes on the subject of slavery, observes;—"The number of slaves continually diminishing, a demand constantly exists for the purchase of them, which is supplied chiefly by their parents in seasons of scarcity and famine, or in circumstances of individual and peculiar distress" (*Par. pap.* 138, 1839, p. 312). During one of such seasons in the Solapoor and adjacent districts, we learn that the parents, being unable to support them, either sold or deserted their children, and that some of them "were seized and carried off, and disposed of to the best advantage" (*Ibid.* p. 485). What a picture of the wretched state of society in India! Ought not the causes of these famines to be strictly inquired into by the government, with a view of ascertaining how far they result from the dispensations of providence, or are occasioned by mis-government? We fear it will be found, upon inquiry, that the appalling calamities of which we so frequently hear, are to be traced more frequently to the injustice of man than to the providence of God.

In Kumaon, we learn from Mr. Trail, the commissioner, that "individuals of the Dome caste are allowed to be purchased and transferred by sale from one master to another, for the purpose of

cultivation, which is carried on solely by Domes," and that, "in accordance with this rule, thousands of children of both sexes are annually sold" (*Par. Pap.* 138, 1839, p. 358). The political agent, Lieut.-Col. Young, in a communication relating to this subject, addressed to the agent of the governor of Agra, dated 10th December, 1835, says, "the custom of permitting Brahmins to purchase Domes for the cultivation of their lands, if it be permitted by government, is liable to gross abuse," as it was proved in a recent case, "that prostitutes were upheld in the purchase of females, for the vilest of purposes" (*Ibid.* p. 358). An attempt was made to check this, by rendering the tenure by which slaves were held in Kumaon uncertain (*Ibid.* p. 363), and "the purchasing of slaves for purposes of cultivation, was forbidden. Upon a representation, however, of the Rajah Soodursem Shah, that "the cultivation cannot be continued without purchasing men for the purpose," the acting governor-general at Delhi, C. T. Metcalf, Esq., replied, that he was "aware that it is a common practice in the hill provinces (from Kumaon to the Sutledge) to traffic in slaves;" and, that, knowing it could not be "suddenly suppressed," he merely recommends the Rajah "to discourage and forbid as much as possible the buying and selling of slaves;" and Lieutenant-Colonel Young was ordered "not to interfere farther with a view to enforce the execution of the orders issued by him within the separate territories of the Rajah" (*Ibid.* pp. 75, 76, 77). There can be little doubt that the permission to sell children fosters improvident marriages, destroys natural affection, generates the most wretched habits, and leads to the perpetration of enormous crimes, whatever may be said by its apologists in justification of the practice.

The importation of slaves by land into the company's territories, except for purposes of traffic, is not forbidden. We may, therefore, expect that they are not only frequently removed from one district to another, but are either openly or clandestinely introduced from the native states, as occasion may require, without exciting the attention of the authorities. "It cannot escape observation," says the Chief Judge Leycester, "that the extension of our territory has greatly added to the increase of this detestable traffic, and its far more detestable impunity. British protection has had the peculiar property of branding nations with slavery, who, as far as we were concerned, were protected from it before; that, under the show of British liberality and justice, lurked the economical taint—that, successively as the ceded provinces were transferred to us, as Nepal was conquered, and the Mahratta combination annihilated, each act of sovereignty carried with it a secret clause, 'You may now, your wives and children, be removed into Bengal, as slaves; and at the caprice of a slave-master, a man's wife being what is termed a slave, may, with his children by her, be carried off from him to any remote corner of the province, boasting the enjoyment of British protection.' This has occurred; and, as to what might happen, 'they might be lotted, and sold at outcry in Calcutta, or put up to the hammer as assets in liquidation of a balance of revenue, or in satisfaction of the decree of a court of justice!'" (*Ibid.* p. 315).

Kidnapping, we have said, is a punishable offence, nevertheless it prevails to an enormous extent in British India, and under circumstances truly revolting and atrocious. To produce the whole of the evidence on this painful subject would be impossible within the limits of this article; we shall, therefore, confine ourselves to a few notices of this abominable incident of Indian slavery. Among those notoriously engaged in stealing children are the Brinjarries, of whom, and the great difficulty of controlling their movements, we have some account in a valuable communication of Mr. Williamson's, collector of Dhoolia, to the commissioner in the Deccan, dated 30th of July, 1825. After suggesting certain rules to check the evil, he says, "while the free transport of slaves is allowed, and while the sale of them is permitted, the practice of kidnapping will be continued, whatever penalties may be enacted against it;" and, supposing the existence of such rules as he recommends, he observes, "the great difficulty will be to give effect to the rule prohibiting the import and export of slaves; for, intimidated by their possessors, the children kidnapped will give any account of themselves that those possessors choose; and custom farmers consider it so much their interest to keep on good terms with Brinjarries, and other such traders, that they will afford but little aid to the wishes of government in respect to such prohibition;" . . . and, he adds, "I fear mustering the followers of the Brinjarries would have little effect, and might, to elude detection, lead to murders, for they are an unfeeling and cruel race; . . . and this could be often done without detection. Besides, it would be difficult to detect a slave, dressed, as it would be, in their own clothes; and, as before alluded to, taught to say it was the child of one of themselves, or of a deceased relation" (*Par. Pap.* 138, 1839, p. 437).

In 1835, in consequence of the discoveries which had been made in one of the collectorates, an order was addressed to the Mamletdars, to take measures for the detection and punishment of kidnappers, which contained the following reference. "Brinjarrees and Lumbanees are in the habit of travelling all about the country, and, during the sojourn of their thandas near villages, kidnap children, and commit other robberies, against which it is very essential that immediate bundobusts be made. Do you, therefore, inquire and report on the best way to prevent children being thus taken away." (*Ibid.* p. 554.)

Another class engaged in kidnapping children are Dacoits. We find a reference to them in a minute of Mr. Robertson's, revising certain proceedings in the case of one *Onygain*. That functionary

said, "I have revised the proceedings in this case, and find that the woman whom the petitioner purchased as a slave was taken by a gang of Dacoits, who attacked the village in which she resided, in the province of Arrakan, in the day time, murdered four men and nine women, and carried off twenty females as slaves!" No intimation is given, that any of these Dacoits were taken and punished; but we are informed Onygain and another, who had been sentenced by the court which tried them to "imprisonment for seven years, with labour in irons, for purchasing two slave-girls" from these very persons, were released, on the ground that they "had committed the mere offence of purchasing slaves, in conformity with the customs of their country!" (Ibid. p. 344.)

We proceed now to notice another class of Indian kidnappers, the Thugs. References to their horrid practices will be found in Par. Pap. 138, 1839, p. 69; where they are described as having kidnapped children, and very possibly murdered their parents. A painfully interesting account of this division of the crime of Thuggee will be found in the *Friend of India*, quoted in the Asiatic journal, from which we make the following abstract. "The Megpunnas (Thugs) immolate travellers to obtain their children, whom they afterwards sell into slavery. The great founder of this system, Kheama Jemadar, was considered a holy man," and "the greater part of the gangs who have engaged in this revolting system of murder, sustain the character of religious mendicants; and the system itself is firmly believed to be under the patronage of the goddess Kalee. In common with the Thugs they have a slang language, known to all the initiated. Unlike the Thugs, however, they always take their families with them on these murderous expeditions; the females assist in inveigling travellers, and in taking charge of the children till they can be disposed of. Their victims are generally chosen from the more indigent classes, the disappearance of whom is less likely to excite suspicion than that of more wealthy individuals; and they find that it is more lucrative, as well as more safe, to murder the poor for the sake of their children, than the opulent for their wealth. The Brinjarries, who are widely scattered throughout the upper provinces, are ever ready to receive the children of murdered parents, and they enjoy many facilities for subsequently distributing them among the brothels of the principal cities, or disposing of them to men of wealth and consideration: suspicion may be at once lulled by the declaration that the children were purchased from indigent parents, who had no longer the means of supporting them."

From the depositions of some of these Thugs who had been taken, we make the following extracts.—"Gopaul: 'I murdered, in company with a large gang of Thugs, eight travellers at Beloochepore, and took six of their children. . . . I never had any other occupation.' . . . Jewan:—'I murdered four people at Kusseeagunge.' . . . Six children of the murdered people were recovered. Khumba (a female):—'My husband had a gang of forty or fifty men and women, whom I always accompanied on Thuggee. I never performed the office of Sugh Andoss, or strangler.' Three of this woman's sons and two of her relations were hanged for the murder of three travellers, whose children they obtained. "Radha:—'My parents were murdered near the village of Dunkaree . . . between forty and fifty Thugs were present on the occasion. . . . I was subsequently adopted by Salga Jemadar, a relation of Khema. . . . I have been three or four expeditions with him. A poor woman was murdered in my house. . . . I took charge of her children (three) while my husband was employed in strangling her.'"

The report of Major Sleeman, from which these particulars have been abstracted, closes with a list of 223 Thugs employed in murdering indigent parents for the sake of their children, all of whom, with the exception of forty who had just been captured, were at large.

We might pursue this subject further, but we forbear. Enough has been said to prove the existence of slavery in its most degrading and atrocious forms in British India; and to show that its kindred abomination the slave-trade prevails to an enormous extent, as a consequence of its existence. It is also clear that the foreign branch of it is marked with the usual revolting features of African slave trade, of which it forms a part, with the additional enormity, that mutilated individuals are required by the voluptuous Asiatics to watch over their harems; and that the home branch of it is associated with all that is debasing in idolatry, and cruel in murder. Iniquities cluster thick round the system of Indian slavery; but, like every other crime which has afflicted and disgraced mankind, it may find its apologists; it has found them in men of ability and rank, but vain we trust will be their attempts to sustain it against the united efforts and prayers of the christian philanthropists of this country.

NOTE. Additional particulars may be found in Par. pap. No. 128, 1834, No. 138, 1839, and Adam's Law and Custom of Slavery in British India, pp. 130 to 194, and pp. 272 to 276.

SIGNS OF THE TIMES. No. III.

ADDRESSED TO THE ABOLITIONISTS OF ENGLAND.

We do not forget that it is said, "let not him that putteth on his armour boast himself as he that putteth it off." We hope to avoid being guilty of this folly, while we refer from time to time to those circumstances which are calculated to animate our hope, and strengthen our resolution, while engaged in the arduous conflict to which the friends of the slave are still called.

There is no country in which there is so much to cheer those who are employed in promoting the cause of abolition as our own. When we reflect upon the band of illustrious men who have in time past nobly contended in this sacred cause, we feel persuaded that their example is not lost, and that a large portion of their spirit yet lives amongst us. We have had an evidence of this fact very recently, in the energetic and determined efforts which were made for the shortening of the cruel system of apprenticeship, and were happily successful in abolishing the last relics of slavery in our West India colonies.

Never, however, was so large an amount of public sentiment in England enlisted on the side of the deeply-injured slave of every land, as at the present moment. In proof of this position, we have already appealed to some of our most influential newspapers and most widely circulated periodicals; we might also refer to our general literature in further confirmation. Few, indeed, are now to be found in England, who attempt the defence of a system which Great Britain has marked with merited reprobation, by the act for the abolition of slavery. It is however, possible, notwithstanding the facts to which we have alluded, that there may be some who entertain the opinion, that, now the cruelties of slavery, and of the apprenticeship which succeeded it, have passed away in our colonies, it may not be easy to call forth a manifestation of public opinion similar to that which has been in time past, and even very recently displayed. We have no fears on this point. It is true, that the feelings of Englishmen and Englishwomen are no longer harassed by the recital of the intolerable sufferings of their fellow subjects in the West Indies, at the Cape, or at Mauritius, to stimulate their zeal in the righteous cause of abolition; but the recollection of what these sufferings have been, and the knowledge of the immense increase in the happiness of nearly 800,000 slaves now liberated, and their rapid advancement in intelligence, morality, and religion, are an ever present and powerful motive to new, and, if needful, increased exertion. We have also now fuller evidences of the general character and results of slavery, wherever it exists, than at any former period; these have gradually accumulated from a variety of sources; and the late Anti-slavery Convention has largely contributed to the stock of knowledge on this deeply important and affecting subject. The knowledge thus acquired has deepened the conviction, long felt, of the essentially cruel, demoralizing, and irreligious nature of slavery; and cannot but serve to strengthen the hands of those in our own, as well as in other lands, who are seeking its immediate and entire abolition. The friends of the slave in England know too well the duty which devolves upon them, and the satisfaction which results from the endeavour to perform it, to allow themselves to withdraw their hand from the plough, until the great work before them is fully accomplished.

We now proceed to refer to the manner in which the knowledge and zeal of Englishmen may be employed in promoting the abolition of slavery and the slave-trade.

Slavery exists in British India, and in the islands of Ceylon, Malacca, and Penang. There is reason to believe that the number of slaves on the continent of India subject to Great Britain is very large—not less than one million, and probably as many as three millions. These wretched beings are divided into domestic and prædial slaves. Of the former class a large portion are females, who are in a state of the deepest degradation, and are not unfrequently (as far as we can learn) victims of the most barbarous cruelty; while the usual hardships and sufferings of field slaves are endured by the latter class.

We know there are those who contend that slavery in India is generally of an extremely mild character, and ought not to be called by that harsh name. To this we reply, that they must be ill acquainted with the nature of man and the results of slavery under English, French, Dutch, Spanish, Portuguese, American, Brazilian, and other European and trans-atlantic masters, who can believe this monstrous proposition. If becomes us, however, to seek for the best evidence which we can obtain respecting the circumstances of slavery in British India and Ceylon, in order to place them fully before the public. To collect and disseminate this knowledge is one important duty of the friend of the slave in England at this time. This must be accompanied with direct efforts to procure the immediate abolition of slavery in the parts we have named, by petitions to the legislature; and by personal endeavours to interest members of parliament with whom we may be acquainted, or connected as constituents, on this subject. We are desirous it should be universally known among our friends, that Dr. Lushington is to bring the question of the abolition of slavery in British India before the House of Commons in the present session of parliament; and it is of great importance that, in so doing, he should be vigorously supported by every abolitionist, by every friend of humanity and justice throughout the land.

A clause relating to the abolition of slavery in the parts to which we are now referring, contained in an India Bill, passed the House of Commons in the same year in which the Act for the Abolition of Slavery received the sanction of legislature, but was unhappily mutilated in the House of Lords. No pains must be spared to prevent the occurrence of a similar calamity, or any other disappointment, when the subject shall again be brought under the consideration of parliament. It is a deeply afflicting circumstance, not hitherto generally known, that in connexion with slavery in our eastern possessions, a slave-trade is carried on from the Portuguese settlements in India, and other parts of the continent of Asia, which all the efforts of the British government have hitherto been unsuccessful in repressing.

We should here notice the important measure just announced for the consideration of parliament, the reduction of the duty on foreign—that is on slave-grown—sugar but that it is specifically treated in another paper, to which we therefore refer.

The Coolie emigration to the West Indies and Mauritius, although proved to have been attended with a large amount of fraud, injustice, and suffering, still has advocates amongst those who are governed by an insatiable avarice, or who are unwilling to deal justly and liberally towards the labourers already at their disposal. It is sought, too, to bring labourers from Africa to cultivate our sugar colonies; although these will doubtless be subjected to a portion, or the whole of those wrongs to which the Coolies have been exposed, owing to their general ignorance, and little acquaintance with the language of those who engage them. In addition to these objections, we cannot but feel that there is much force in the consideration, that our conduct in taking labourers from Africa may be urged as an excuse for a similar measure, by governments under which less security against oppression in their colonies exists than in those of England. We must not, however, forget—can we forget?—how lately slavery has been abolished by law in our colonies, and what a disposition has been manifested to retain its practices, as far as possible, in the new state in which the labouring population is placed: and with these recollections, it is our duty to watch with the utmost jealousy every instance in which Africans have been introduced, and to take such steps as may be calculated to prevent the extension of this evil.

We must also, if required, use our most strenuous exertions to prevent the renewal of the trade in Hill Coolies, with all the fraud proved to have been used in procuring them, and the cruel sufferings and mortality incident to their passage, and the hard servitude which has been imposed upon them. See parliamentary papers relating to the Hill Coolies and other Indians sent to British Guiana and the Mauritius.

We must not omit attention to the foreign objects of the society, which require that an extensive correspondence and occasional personal intercourse should be maintained; that anti-slavery publications, including those which exhibit the results of emancipation where it has taken place, should be largely circulated; and that every step should be adopted which may be calculated to encourage, stimulate, and assist those who may be disposed to take an interest in the abolition of slavery in every part of the world. In order to supply the requisite funds, and to aid in other ways the accomplishment of our British and Foreign objects, it is highly desirable that a more general organization should exist throughout the land. Thus, with the blessing of the Almighty on the united efforts of the abolitionists of England, shall the conduct of our country soon be consistent throughout the wide extent of her dominions; and we shall no longer be liable to the charge of inconsistency, in retaining slavery in the East, while we have destroyed it in the West. Thus will the moral influence of England be immensely increased, in her efforts to induce foreign lands to abolish the iniquity of the slave-trade, and that cruel slavery to which it owes its rise. A new and happy sign of the times will be added to those cheering indications which exist in this land, in which so much has been already accomplished for the most helpless, degraded, and suffering portion of the human race.

See Adam and Pegg on Slavery in India, and a work now in the press on the same subject, the substance of which has for the most part, appeared in the pages of the *Reporter*.

ADMISSION OF SLAVE-GROWN SUGAR.

THIS is a subject on which the abolitionists of Britain must not be supine. It is proposed by the Government, to reduce the duties on sugar the produce of foreign countries, in order to increase the supply of these articles to the British public, and to afford the means of procuring them on more reasonable terms. It is also supposed that such a measure would be favourable to our commerce with some of the countries from which we might thus receive it. We must, however, recollect, that, among the great marts for this article, are Cuba, Brazil, and Louisiana; the two former the great emporiums of the atrocious trade in human beings from Africa, and the latter a large consumer of the surplus slaves of the more Northern American slave states, from whence they are brought without regard to the ties of kindred by which they are bound. Can persons who reflect on the enormous suffering and wickedness by which sugar is obtained in these regions, seek to open a new market for their produce, and thus add a fresh incentive to the extension of the Slave Trade, and the destruction of human life in hopeless, unrequited, and excessive toil? Against such a step the Committee of the British and Foreign Anti-slavery Society have made a protest, in a memorial which has been presented to Lord Melbourne, by whom it was courteously received, and in which they have stated at length their views on this deeply important subject. It was their sincere hope that the Government would not have persevered in their reported intention to reduce the duties on foreign sugars: this, however, is unhappily at an end, and we have now forced upon us the consideration of the course which it may be proper to take, to prevent those deplorable consequences to which we have alluded. We are not unaware of the difficulties with which this question is attended. The Government measure has, doubtless, many friends among the manufacturers of our country, and is strongly urged by the advocates of free trade. The late high price of sugar may also

pre-dispose many, especially amongst the poorer classes, to hail an alteration in the duty, which promises to effect some reduction in the cost of a luxury to which so large a portion of the community have become accustomed. We cannot, however, lose sight of the painful fact, that the extra supply of sugar which we may receive from the countries we have named, is produced by a system which robs the poor of those lands, not only of their rightful wages, but of that liberty which is more valuable than any earthly treasure; that it is produced at a frightful cost of human happiness and life, and to a great extent by a shameful dereliction of the faith of treaties for the abolition of the Slave Trade, purchased, in the case of that with Spain, at a large amount of British treasure. Of what avail is it to have paid twenty millions of money to abolish slavery in our own colonies, if we are now called upon to consume the slave produce of others? Of what avail is it to expend an enormous sum in seeking to suppress the Slave Trade on the one hand, while holding out a bribe to prosecute it still more extensively on the other?

We cannot but think that no friend of the slave in England, whose attention may be directed to this subject, will do his duty, who does not petition that, in the event of a reduction in the price of foreign sugar, this measure may be applicable only to those countries in which it is produced by free labour. We commend this subject to the most serious consideration of our friends throughout the country.

TIDINGS FROM CUBA.

Two interesting and important letters, of very recent date, have just been received at the Anti-slavery office, addressed by a gentleman in Havana to Mr. Tredgold. We extract their principal contents for the information of our readers.

Havana, 10th March, 1841.

Having been for some time a resident in this island, and having had an opportunity of making myself more or less acquainted with several of the prominent features of the slave-trade and its attendant evils, I take the liberty to call your attention to the following statement of facts with which, perhaps, you are not already made acquainted.

Within the last two months, two slave-vessels have been captured and sent into this port by Her Majesty's Cruisers—the *Jesus Maria*, with 250, and the *Segunda Rosario*, with 282, victims on board; the one a prize to the *Ringdove*, Captain Keith Stewart, and the other to the *Cleopatra*, Captain Milne. Condemnation by the mixed court followed immediately afterwards, when the survivors were delivered up to H. B. M. superintendant of liberated Africans, David Turnbull, Esq., and were by him sent to one of the Bahama islands.

On board the prize schooner *Jesus Maria*, rape and murder have been committed to a frightful extent by a man of the name of Vicente Morales, who jumped overboard when the vessel was entering the harbour, and swam to the shore. This man, it is said, is now going at large in this city, notwithstanding the efforts of H. B. M. consul, Mr. Turnbull, to have him apprehended and punished, in conformity with the treaty of 1835 between Great Britain and Spain, a treaty but in name. The Government of this island, so far from acting up to it, countenance and facilitate the introduction of slaves in the most open and barefaced manner. This very criminal, Vicente Morales, and another named Manuel Porche, a native of Lima, ought, in justice to common humanity, to be made examples of, as a warning to others of their class. I know that Mr. Turnbull has tried by every means in his power to get possession of these men, and send them to Nassau, to be tried there by a British court of admiralty, in conformity with the opinion of the attorney general, Mr. Anderson, of that place; but, strange as it may appear, he has not only been unsuccessful in the attempt, but has not even met with encouragement from the mixed court to pursue further measures for the attainment of so laudable and desirable an object.

Vessels of the first-class are continually arriving here from Baltimore, and are sold to men notorious as slave-dealers. They are publicly fitted out at the celebrated wharf of the *Casa Blanca*, and, under the eyes of the whole community, receive on board all the apparatus and implements appertaining to the slave-trade, which proves them to be slavers bound to the coast of Africa. In many instances these vessels commence their voyage under what one should suppose ought to be considered an highly honourable flag; and return with their load of victims bearing another. In almost every case, such as are destined for this port are landed on the coast a very few miles from the city, thence conducted to the public barracones a short distance beyond the walls, where 1215 of the survivors have been disposed of within the last two months, to the planters and others, at from 300 dollars to 425 dollars each.

At one of these barracones, or Spanish marts for the vending of our fellow-men, the following affecting circumstance took place a short time since; and it was witnessed by many of a class of society in this country bearing the image of God, but without the feelings of man. I shall relate the circumstance in the words of an eye-witness. "On the occasion of one of the voyages to the coast of Africa of the celebrated slave-ship *Maria de la Gloria*, alias *Socorro*, an interesting young woman was kidnapped and taken on board. Her mother, having learned the fate of her darling and only daughter, and aware of the utter hopelessness of having her restored to her arms, came voluntarily forward, and gave herself

up to the monsters on board, supplicating by all they held dear on earth (alas! poor woman, how little didst thou know that that all was gold) that they should not be separated. In due course or time they arrived at their destination, the barracones—were put on sale, and sold to different masters residing far apart. The dreadful and heart-rending cries of the unfortunate victims were of course unheeded. The wretched mother, driven to despair by the cruelty of her fellow-man, whilst grovelling on the earth, implored aloud in the language of nature that mercy which she never received; and the agonizing separation was effected by the slave-holder without one single pang of remorse." Report says, and I believe truly, that the mother only survived her cruel fate a few days. Scenes such as these are of frequent occurrence in this "purple land, where law secures not life."

In the course of the last week, two highly respectable American gentlemen, General Talmadge of New York, and Mr. King of Albany, were impelled by curiosity to visit one of the barracones (where were deposited at the time several hundred Africans, who had just been landed), in order to judge for themselves of the calamities attendant on the slave-trade. On their arrival at the place, they were refused admittance on the supposition of their being Englishmen, to which they replied that they were Americans, and requested permission to see the negroes; they were then asked to what part of the United States they belonged, and on having answered that they were from New York, admission was immediately and peremptorily refused, with the observation that, if they had been from New Orleans, their request would have been granted.

There is another class of negroes in this island, called emancipados, or manumitted Africans, who have been brought into this port by her Britannic Majesty's cruisers, have been regularly emancipated, and placed under the immediate protection of this government. These unfortunate and deluded people, thousands in number, continue in abject slavery, without even a hope of ever being made free; toiling day and night for the benefit of a ruthless master, who, when called upon to produce the emancipado (who has been sold to him for a term of five years for 85 dollars), produces in his stead a certificate from the *Comisario de Barrio and Tribunal de Difuntos*, proving the person to have died! This certificate is easily obtained by those who can afford to pay for it, and thus the ends of justice are evidently frustrated, by the imbecility and cupidity of those whose duty it is to protect the much injured and unfortunate African, whose only crime is that of having a black skin.

From the knowledge of this affecting subject that I have been able to glean during my residence here, I am disposed to believe that the final putting down of the slave-trade will have to be effected solely on the part of the British government. I think I may venture to state, with safety as to truth, that there never will be any effective co-operation on the part of this government; notwithstanding the well known fact that there are many very respectable natives of the island, who, although unfortunately without the power, are extremely anxious to see it terminate.

The new governor-general of this island, his Excellency Don Geronimo Valdez, arrived here on the 6th instant, and landed on the morning of the 7th. It is said of him that he is an upright and honourable man, and that he brings with him orders from his government to do every thing possible for the effectual suppression of the slave-trade. Time alone can prove whether this be true.

Havana, 20th March, 1841.

It is positively asserted, on good authority, that the new captain-general, Don Geronimo Valdez, has caused to be given to him a list of the vessels engaged in the African trade; and has declared that such vessels as are already out shall not be interfered with, if they succeed in arriving and disembarking safely their cargoes of victims; but that no vessel shall be allowed to leave the port on a slave-trading expedition; and that, besides being vested with the power to do so, he is fully resolved to suppress effectually this inhuman and self-condemning traffic. I may add, as a proof of the purity of his intentions, that, only the day before yesterday, he positively refused to receive the blood-stained perquisite of two hundred half-ounces, that was tendered to him for 200 unfortunate Africans just landed, being the customary bribe paid to his predecessors for their toleration of the deed.

At this distance from home, and in a country where Anti-slavery publications are far from being freely circulated, the proceedings of your great convention, held in London in the course of last year, have scarcely been heard of. It has been stated, I know not with what truth, that a law has been passed in England making it penal for any of Her Majesty's servants in a foreign country to be the owner, or even the hirer of slaves; but I am sorry to be obliged to inform you, that, if such be really the case, the law has not been very promptly obeyed in this part of the world.

It is only within the last few days the English judges in the mixed commission court have parted with their slaves; and there is an inferior functionary connected with that tribunal, who, during an official residence of some twelve or fourteen years in this island, has distinguished himself, even more than the native slave-holders, for extreme severity towards his emancipados and his other unpaid domestics. I have been assured that this person has materially improved his income by the buying and selling of domestic slaves; a fact which, in justice to the Creole population, I may say is contrary to their habits, and, generally speaking, abhorrent to their feelings. It is generally understood that this

individual is about to retire on the pension he has earned by his length of service, and it will be not a little curious to see whether he will endeavour to evade the provisions of the new law or, in fact, what he will do with the slaves and the emancipados now in his service.

BRITISH GUIANA.

COMPARATIVE PROSPERITY OF THE COLONY.

WHEN honourable members of the Combined Court dilate upon the great amount of fixed capital in this colony, which lies unemployed for want of labour—when they exert their eloquence to prove that an addition to the labour of the colony would increase its produce to a very great degree, and would prove equally beneficial to the labourers and to their employers, they follow a line of argument which is rational, and true, and they do but discharge their duty to the colony.

There is one thing, however, of which they should beware, as only tending to defeat the object at which they aim. The West India colonists, by raising the cry of ruin! ruin! upon all possible occasions, have made themselves a complete laughing stock; and, like the boy who amused himself by crying out wolf! they are no longer believed, even when they speak the truth.

By undertaking to compare what is with what was, our legislative advocates for colonial interests are treading upon very dangerous ground. Such a comparison, as they make it, with all the advantages on the side of past times, even if the comparison was truly made, could do no possible good. It amounts in fact, to an assertion, that, in an economical point of view, the colony has been a sufferer by the emancipation; and that, whatever other advantages may have resulted from it, the colony has lost money by it. Now, even if this were true, to insist upon it would only raise up a host of enemies, men who staked their reputation upon the success of the emancipation, even as an economical project, and who have the power, and who are already disposed to place obstacles in the way of immigration, so essential to the rapid advancement of this colony.

Still more impolitic is it to make such assertions, when they are wholly untrue; and that they are wholly untrue a few considerations will most conclusively show.

Previous to the emancipation, the property of the planters consisted—1st of the slaves, and—2ndly, of the land, buildings, machinery, and fixed capital; and the value of the slaves was reckoned at one half the amount.

The total value of the slave property in the colony at the era of the apprenticeship, was estimated, from actual sales during a long period preceding, at about £9,500,000. This appraisement, however, founded upon actual sales, gave a value, very considerably above the real productive value of that property. To prove this assertion, we cite the authority of a "declaration of the colonial members of the honourable court of policy of British Guiana, delivered in court, to his excellency major-general Sir Benjamin d'Urban," signed by James Johnston, F. P. Van Berckel, John Crow, T. Frankland, and John Cameron, dated January 10th, 1832, in which those gentlemen very justly aver, that the price which slaves still fetch in the colony, is owing to labour in agriculture not being otherwise attainable, and consequently must be procured at a partial sacrifice on the part of the planter, to avoid the total loss of his estate.

Thus it appears that so long ago as 1832, during the existence of slavery, the want of labour which now produces such an outcry, was even then severely felt; and that the planters were obliged to procure labour at a *partial sacrifice*, that is to say, by paying much higher prices for slaves, than the returns of that labour would justify, in order to prevent the total loss of their estates.

Are we not justified then in saying, that the appraisement of 1834, being founded upon actual sales, estimated the value of the slaves, very considerably above the real productive value of that property?

But there is another thing with respect to this property, which deserves also to be taken into account. It was undergoing annual diminution; and tending rapidly to total decay. In the ten years, preceding August 1834, it appears from official documents that the slave population of British Guiana, diminished by upwards of twelve thousand, being an *eighth* part of the whole. This diminution, at the rate of twelve hundred slaves a year, according to the average of the above appraisement, shows an annual loss of £144,000; representing at five per cent., a capital of near £3,000,000.

Taking all these things into consideration, we shall make bold to hazard the assertion, that the owners of the slaves, having received about half of their appraised value, and their services for four years into the bargain, made a most fortunate and advantageous disposal of a very ugly kind of property. No doubt there were individual cases of hardship on the part of recent purchasers, but considering the transaction as a whole, we repeat it, the planters had a most fortunate bargain.

The result of the emancipation was to transfer the ownership of the labour of the colony, from the planters, to the labourers themselves. This labour, as we have seen, represented in the hands of the planters, a capital of £9,500,000, a capital constantly depreciating, and yielding a very poor interest.

Taking the monthly wages of the labourers as stated by Mr. Young, and acquiesced in by Mr. Troughton, at 300,000 dollars; and making no account at all of the proceeds of their labour which

do not take the shape of wages, the labour of the colony in the hands of its present proprietors, represents, at six per cent., a capital of sixty millions of dollars. Beyond all question, the present race of labourers is increasing instead of diminishing. That the colony has been a great gainer by the emancipation, as far as labour merely is concerned, cannot admit of doubt. The old proprietors of the labour of the colony were paid all that their interest in it was worth; and the new proprietors of it form a new class, who annually spend in the colony a great amount of money, giving a great extension to the consumption of British manufactures; thus benefiting the mother-country, benefiting themselves, and benefiting the colonial merchant.

What effect the emancipation has had upon the value of the colony, lands, buildings, &c., and also upon the cost of production, we shall proceed to consider hereafter.—*Guiana Chronicle*.

JAMAICA.

RIOT AT SPANISH TOWN PROVOKED BY THE POLICE.—[From the *Colonial Reformer*.]—It appears that a man called Jack Reid, whom the Kingstons scribes designate "a vagabond," meaning thereby "a black man," for, in their vocabulary, the words are synonymous—was indulging in obstreperous mirth in the market place, by running off with some pieces of cane belonging to two women named Harvey and Yates—whilst engaged in these pranks he was, as is usual with persons of his class, especially in Spanish Town, excessively noisy. After restoring the canes to their owners, he was retiring from the market place, and was accosted by the police stationed there, who told him he had no right to be making that noise in the market—his reply, the precise terms of which we have been unable to gather, gave great offence to the testy policeman, who called out, "if you say another word, I will take you up and carry you to goal." Reid, it appears, defied him to do so, on which he was immediately surrounded by the three policemen, who laid violent hands on him, and endeavoured to drag him to goal. He refused to go, alleging that he had done nothing to deserve it, and then threw himself on the ground; one of the three policemen was then sent to obtain additional aid—the two others in the mean time keeping hold of Reid. Before the additional men arrived, Reid, by a sudden effort burst from the grasp of the two men, and laid hold of one of the columns of a piazza, which he firmly embraced to prevent his being carried to jail. By this time three or four additional hands arrived, and a desperate attempt was made to force Reid away, and whilst some were pulling at his legs and body, one of the number beat him on the arms with his staff to make him let go his hold. The violence of the efforts used by the police, and the powerful resistance of Reid to those efforts, will be appreciated when we mention that the pillar itself at length gave way, and fell with considerable force across Reid's chest, and, of course, stunned him a good deal. The police, however, now dragged him along towards the jail, but, on their passing a cart, Reid again stopped their progress by catching hold of the wheel, to which he clung with such tenacity as to bid defiance to their efforts to remove him; one of the police commenced a savage attack on him by beating him on the arms and shoulders to make him let go his hold—he called out to one Philip Bogle to mark which of the police was beating him—and on Bogle replying that he would, the policeman, we are told, turned round and struck him a blow. At length, Reid received a terrible blow on the back of the neck from the policeman's staff—his grasp of the wheel instantly relaxed, and he fell senseless to the earth.

By this time an immense crowd had collected on the spot, and had been testifying their indignation by loud cries of *shame*; but, when they saw Reid fall under the policeman's staff, and beheld him as they supposed lying dead, they became infuriated to a most alarming degree. The excitement spread like wild fire—they demanded the body of Reid, but the police refused to give up, and stood over the supposed dead man, brandishing their staves to keep the crowd at bay. At this juncture a rush was made—sticks, stones, brick-bats, and other missiles were showered on the police with frightful efficacy; they were compelled to retreat, and flew for protection into the different shops and houses that happened to be open.

The mob, by this time roused to a pitch of phrenzy, vowed vengeance against the whole of the police, and hunted them down wherever they were seen. One of them received a dreadful blow upon the eye-brow, which in all probability will cause the loss of the eye—another was severely wounded by a broken bottle in the neck, and several others, we understood, were severely beaten by the enraged mob. When the attack was made, one or two of the police rushed into the house of Mr. Sanly, a respectable elderly person, who immediately attempted to close the doors to keep out the pursuers—whilst doing so a stone or brick was flung with great force against the door, and struck the old gentleman on the arm, and broke it.

The mob were now masters of the field, and were rushing about the streets hunting after the police. To this one object of revenging themselves on that body, was their rage directed. Reid was now raised from the ground, under the belief that he was either dead or dying—he was carried to the surgery of Drs. Turner and Bowerbank, where one of the assistants attempted to bleed him. Shortly afterwards the editor of this paper was called upon, and desired to render his professional assistance. On our arrival we found an immense concourse of people collected in the street, a vast number of whom were armed with bludgeons—the people were evidently in a state of the most alarming excitement, uttering the most violent imprecations on the police.

On examining Reid, we found him lying in a state of insensibility, but we were quickly satisfied that he was in no immediate danger. We communicated this fact to Mr. Derbyshire, who was present in his magisterial capacity, and at his suggestion we went outside to report the favourable intelligence to the assembled multitude, for the purpose of allaying the excitement on this head. We addressed the people, and told them that the object of their solicitude was neither dead nor dying, and, such being the case, earnestly advised them instantly to disperse to their respective homes. A respectable person named Ashley offered to give shelter for the night to Reid—he was accordingly lifted up and carried by his friends to Mr. Ashley's, the crowd at the same time separating and moving away from the place.

From this time we learn that there was not a single act of violence com-

mitted by the people—but a great number continued to loiter about the streets, collecting in small groups in the vicinity of the scene of the late disturbance. The greater part, however, are stated to have been respectable persons, who had been led by curiosity to come out and see what was going on. Mr. Hill and Mr. Derbyshire used every exertion to get the people to disperse; and, finding that their remonstrance had no effect, and fearing from what passed that there was some intention to renew the attack on the police, the two magistrates considered it advisable to call in the aid of the military to overawe the populace. Accordingly ten file of soldiers were marched from the barracks, and stationed opposite Mr. Derbyshire's store—still the people budged not—they remained perfectly passive, without manifesting the slightest excitement. After a time the soldiers were marched away, and then the greater part of the crowd quietly retired to their homes.

RIOT FROM THE DISPUTED POSSESSION OF A CATHOLIC CHAPEL AT KINGSTON.

It appears that, on Friday evening, a party of Mr. Murphy's adherents walked into St. Martin's Catholic chapel, and took quiet and peaceable possession thereof. The next morning, the rev. Mr. Gleeson, who had been appointed as pastor of that church by the vicar apostolic, the head of the catholic church in this island, together with one of the trustees, demanded possession, and, on being refused, applied to Mr. Hector Mitchel for his magisterial authority to put them in possession of the premises. Instead of recommending the parties to adopt the legal process of ejectment, if it were really a case of forcible detainer, Mr. Mitchel thought proper to prostitute his magisterial authority by making himself a party to the matter! He accompanied the complainants to the spot—ordered out a detachment of the police, and directed them to climb over the fence, and by force of arms to eject the parties in possession.

This act, beyond a doubt, constituted a flagrant violation of the law, and Mr. Mitchel has thereby redereed himself morally, and we suspect legally responsible for what ensued.

The police, having forced their way into the premises, attempted by main force to drive out the then occupants—a scuffle ensued, during which, some severe injuries were inflicted—a great crowd surrounded the chapel—and the building was attacked both from within and without: the windows were smashed in—the benches broken, and the organ shivered to atoms. The police, as might be expected, were unable to stand their ground, and were compelled to retire without executing the mayor's illegal order.

One might have supposed that, by this time, Mr. Mitchel would have become sensible of his gross ignorance and folly, and would have endeavoured to retrace his footsteps; but no—there is a fatality in all he does; every step he takes is but an advance towards his own downfall. His honour drove to the barracks, and demanded the aid of a company of soldiers to quell the mighty disturbance created by his own folly, the principal part of the rioters consisting, we understand, of women! The military were marched down, and about thirty persons were immediately taken into custody, many of whom were in no way concerned in the disturbance, either directly or indirectly! The prisoners were at first lodged at the office of the commissary over the way, and subsequently conveyed to jail, where a commitment was lodged, accompanied by an injunction from Mr. Hector Mitchel that *no bail was to be taken*—it was not a bailable offence.

At one period during the row, we understand Mr. Mitchel was on the point of reading the riot act, but was prevented by the timely and judicious intervention of Mr. Moresby, or perhaps the scene might have terminated in a little wholesale butchery.

The persons who by the imperious mandate of Mr. Mitchel had been consigned to prison, were detained there till Monday morning when, they were marched down under an escort of ARMED POLICE, headed by inspector Armstrong on horseback, with a drawn sword in his hand, to the private counting house of Mr. Hector Mitchel, where a star chamber investigation was entered into by Mr. Mitchel alone, to the exclusion of every other magistrate—to the exclusion also of the friends of the accused and even their solicitor! And what was the result of this extraordinary proceeding? Why, that notwithstanding Mr. Mitchel on the Saturday had declared the offence for which they were committed was not a bailable one, on Monday he is content to take their own simple recognizance for their appearance.

Had there been no police, there would have been no riot at St. Martin's Chapel.—*Colonial Reformer*.

BRITISH GUIANA.—The official report of produce during the past year (1840) exported from this colony, exhibits an increase of more than five per cent., or 2199 hogsheads, on sugar; thirty-two per cent., or 3865 casks, on molasses; and one hundred and twelve per cent., or 1,772,000 lbs. on coffee, as compared with 1839; concurrent with an apparent diminution in the quantity of rum, of five per cent., arising from the concentration of the spirit, for want of a sufficient supply of casks, and an actual deficiency of seventy-five per cent. on the small quantity of cotton grown in this province. The comparative exports of timber do not appear in the official table. The growth, therefore, of this valuable and rapidly increasing branch of commerce cannot be ascertained. The value of the surplus quantity of produce shipped last year, making a full allowance for the apparent diminution in the quantity of rum, and the real deficiency in cotton, is estimated at £138,936. The nett revenue of the planters last year, from data furnished by themselves, amounted to £415,748, or more than 10 per cent., after allowing 6 per cent. for interest of invested capital, and 10 per cent. for wear and tear of machinery, and dilapidation of buildings. The gross revenue of the planters of British Guiana during the year 1840 considerably exceeded £2,000,000 sterling.

At a meeting of the Baptist Church, at Arnsby, Leicestershire, held on the 31st of March, 1841, the following resolution was unanimously adopted:—

"That we regard slavery as the foulest blot upon humanity, and the grossest infraction of the liberties of man; directly repugnant to the principles and the spirit of the gospel, and a heinous sin in the sight of God. That, therefore, it is our fixed belief that individual professed christians and christian churches in the United States of America, or elsewhere, that support or connive at this atrocious system, grievously offend the majesty of Heaven, and if, after exhortation, entreaty, and warning, they still refuse to 'take away the accursed thing from among them,' they are wholly unworthy of 'the communion of saints.'"

(Signed) J. WEBB, Pastor.

TO CORRESPONDENTS.

Communications for the Editor of the *Anti-Slavery Reporter* should be addressed to the Anti-Slavery Office, 27, New Broad Street.

Some further contributions have been received, and shall be duly acknowledged in our next list.

Anti-Slavery Reporter.

LONDON, MAY 5TH.

NOTICE has at length been given in the House of Commons of an intention, on the part of Her Majesty's government, to propose the reduction of the duty on foreign sugar from 63s. to 36s. per cwt., with the view of opening the British market to this commodity. The fearful impulse which will thus be given to slavery and the slave-trade in Cuba and Brazil must, if possible, be prevented; and the occasion calls loudly for the prompt and energetic action of all the friends of humanity. The subject is under the serious consideration of the Anti-slavery committee, who will communicate their sentiments to their friends by a circular, in a day or two. In the meantime we intreat every abolitionist to be awake to the extreme importance of the subject, and all to be prepared for immediate exertion.

OUR friends will see by advertisement that the Annual Meeting of the British and Foreign Anti-slavery Society is to be held at Exeter Hall, on Friday, the 14th instant. We cannot doubt that it will be a meeting of great interest, and of important influence.

It is announced that Mr. Haydon's great painting of the General Anti-slavery Convention will be opened for exhibition to the public at Egyptian Hall, Piccadilly, on Monday, the 10th of May. It will certainly be an object of much attraction, and, in our judgment, it will amply repay the interest it will excite.

WE perceive by an advertisement, that the half-yearly meeting of the Imperial Brazilian Mining Association, on the 15th instant, is made special, in order to take into consideration a proposal to emancipate the slaves held by that body. In our last we mentioned that the directors had engaged to convey to every shareholder, with a notice of the meeting, any paper which the gentlemen who have raised the question should desire. The address already advertised has been adopted for this purpose, one paragraph having appropriately been added to it, of the following tenor:—

The Directors have, in accordance with our earnest request, resolved to make the general meeting of the Proprietary on the 15th of 5th mo. (May) special for the consideration of the propriety of emancipating the slaves, and providing for the security of their future freedom; we, therefore, respectfully but earnestly call upon our brother shareholders to attend that meeting, or entrust their proxies to the friends of this righteous cause; and we trust they will all be so deeply impressed with the necessity of this step, that they will freely offer their assistance to accomplish it, and let all bear in mind the precept of our Holy Redeemer, "Therefore, all things whatsoever ye would that men should do to you, do ye even so to them." Should the company perform that act of justice which is sought at their hands, we entertain the hope that it would in no small degree promote the righteous cause of emancipation in Brazil, and in other parts of the world.

We cannot but cherish an assurance that so respectable a body will answer promptly and energetically to such a call. They will feel that the eyes of the country are upon them—we may say the eyes of the world. What has been already done has been done in privacy; but a decision is now to be taken beneath the full blaze of public observation. Hitherto we have had only half a dozen gentlemen in a counting house, feloniously purchasing slaves, and pertinaciously holding them; the British public and the civilized world will now wait to see, whether proceedings at once iniquitous and illegal will be sanctioned and perpetuated by a solemn vote of a numerous and respectable public body, composed of members from every rank of British society.

OUR readers will doubtless peruse the letters from Cuba with considerable interest. It is satisfactory to receive a communication from Havana, evincing on the part of the writer an abhorrence of that injustice and cruelty which is there continually taking place. We notice the allusion to General Valdez, which, so far as his integrity and general character for humanity is concerned, we believe to be just. How painful must it have been to such a man to countenance, for however brief a period, the atrocities of the slave-trade! With regard to the future, however good the intentions of the present government of Spain and those of General Valdez may be, we can have little confidence in their results, when we reflect on the guilty motives for continuing the slave-trade, and the want of that virtue in a community of slave-holders which is needful for its repression.

But, supposing even that the slave-trade in Cuba is for a moment

suppressed, how uncertain is the security afforded by the best dispositions of a government, or by that of a governor who may shortly be displaced, and may give way to others who will adopt a different course, and allow the tide of iniquity to run with more than its accustomed vigour in its long and deeply worn channels! There is no security against the slave-trade, except in the abolition of slavery.

THE fears of the friends of freedom and tranquillity in Jamaica, that the new police of that island would provoke serious breaches of the peace, have been but too speedily and too painfully realized. In our Colonial Intelligence will be found a narrative of one alarming riot, which sprang from the irritating conduct of this force, in Spanish Town, on the 27th of February last; and of another, in which they were the instruments of an infatuated magistrate, at Kingston, on the 6th of March. The *Colonial Reformer* of the 13th contains a passage which we shall extract below, premising only that the police were parading the streets, night and day, with bayonets and loaded pistols, so late as the 20th (which is the last date), without any interference of the governor.

MARTIAL LAW!

Kingston and Spanish Town may now be declared in a state of siege. The streets of both towns are being paraded night and day by bands of armed men—armed with bayonets and pistols—for the obvious purpose of over-awing her Majesty's subjects.

Things are coming to a pretty pass indeed! This is a specimen of Sir Charles Metcalfe's "peaceful reign!" Here are the very men who have been the direct cause of every disturbance which has occurred in the island since they were organized into a body—these men who are employed and paid to preserve the peace, but who have uniformly acted the part of peace breakers, now authorized to mix amongst the people with murderous weapons in their hands! We call the attention of our friends in England to this startling fact, and would put it to them what sort of liberty is likely to be enjoyed by the labouring classes, when it is thus controlled by the tyrannous dominion of a set of men, who, for the most part, are the scum and refuse of the community.

If these lawless and turbulent petty tyrants are to be authorized to go amongst the people with loaded fire-arms and side-arms, in order to avenge themselves in the event of any dispute with the people—for such is the avowed object of their being armed—then, what is to prevent the citizens also from adopting the same means of defence? And who can contemplate without horror the consequences that might ensue from a collision between the parties under such circumstances?

Let any one read over the report we have copied from the *Morning Journal*, of the peace office proceedings in the matter of complaint of Mr. Hart against the inspector, Mr. Armstrong. Mark the language of that ruffian policeman—"NOTHING BUT A MOUNTED POLICE WOULD PUT THE VAGABONDS DOWN: GIVE US A DOZEN MOUNTED POLICE, WITH SHARP SWORDS, AND WE WILL PUT THEM DOWN, THEIR RINGLEADERS, AND THEIR TAILS!!!"

Once more we call on all who have an interest in the peace and welfare of the country, to unite in the adoption of all lawful measures for the speedy removal of this most worthless and mischievous body of men.

It is at once melancholy and instructive, to contrast the state of things now before us with that which has for some years past happily existed in Jamaica. During the recent contumacy of the House of Assembly, there was no police in existence; and then, when every element of disturbance was free to work uncontrolled, there prevailed the most perfect tranquillity—jails were empty, treadmills overgrown with weeds, and justices without employment. We have no sooner a police than the scene is changed altogether. Between their own folly and that of headstrong magistrates, of whom they are the willing tools, the two most considerable towns in the island (one of them the seat of government) are, within seven days, convulsed with frightful riots, and the whole population, for weeks afterwards, placed under the scarcely less frightful apparatus of a lawless despotism. We do not quarrel in the abstract with the existence of a police; but we maintain two points—the first is, that a police system should never be carried further than necessity demands—and the second, that its powers should be exercised with the utmost courtesy and forbearance. A rude police is a nuisance for which their could be no occasion, and of which there can be no endurance. With the spirit that now actuates the Jamaica police, it is plain that the island cannot be quiet; and we trust that the prompt and serious attention of the home government will be directed to the subject.

WE recall to the recollection of our readers, the appearance in our columns, on the 27th of January last, of a letter, purporting to have been addressed by the late General Harrison, when candidate for the presidential chair which he has so soon and so solemnly vacated, to Messrs. Tappan, Leavit, and Dresser, on the Anti-slavery question. Mr. Sturge, in a letter dated New York, April 9th, informs us that the document was the forgery of a political opponent, with the intention of injuring General Harrison in the south. We are truly sorry that the hoax played upon the highly respectable parties who were the source of our information, should have been so far successful; and we take the earliest opportunity of making to the friends of the deceased statesman the fullest reparation in our power.

ALTHOUGH very unwilling to trouble our readers with a double paper, we have deemed it so important to insert the whole of the proceedings in the United States respecting the Africans taken in the Amistad, that we have ventured on it this week. We direct more especially the attention of our Spanish friends to this interesting document.

LIST OF CONTRIBUTIONS.

The following have been received during the past month.

| | Donations. | Subscrips. |
|-------------------------------------------------|------------|------------|
| Charles Tylor, Heath, near Wakefield | | 1 1 0 |
| Bristol and Clifton Ladies' Auxiliary | 10 0 0 | |
| Joshua Priestman, Thornton | | 1 0 0 |
| Joshua Priestman, jun. | | 1 0 0 |
| Exeter Ladies' Auxiliary | 9 0 0 | |
| Stoke Newington Ladies' Auxiliary | 30 0 0 | |
| George Thomas Bristol | 25 0 0 | |
| Edward Thomas | 25 0 0 | |
| Henry Hunt | 10 0 0 | |
| Thomas Saunders | 10 0 0 | |
| A Friend | 10 0 0 | |
| Joseph Reynolds | 10 0 0 | |
| John Harford | 10 0 0 | |
| John Tanner | 5 0 0 | |
| James Charlton | 10 0 0 | |
| Gawen Ball | 25 0 0 | |
| Edward Ash | | 2 2 0 |
| Colchester Auxiliary | 4 0 0 | |
| Henry Crowley, Alton | 2 0 0 | |
| Abraham Crowley | 1 0 0 | |
| William Curtis | 1 0 0 | |
| William Curtis, Jun. | 0 10 0 | |
| B. H. Coleby | 1 0 0 | |
| Joshua Coleby | 0 10 0 | |
| W. Holmes | 1 0 0 | |
| Misses S. S. and E. Bell | 0 10 0 | |
| William Exall | 0 10 0 | |
| Rev. J. Banister | 0 10 0 | |
| Rev. C. Howell | 0 5 0 | |
| Mrs. A. Warner | 0 5 0 | |
| Mr. Newton, Bamsby | 0 5 0 | |
| Mr. Edmund Andrews | 0 5 0 | |
| Mrs. A. Smith | 0 5 0 | |
| Mr. Burnett | 0 5 0 | |
| Mr. W. A. Rogers | 0 5 0 | |
| Mr. W. Heath | 0 7 6 | |
| Wisbech Auxiliary | 5 0 0 | |
| Rev. P. Guillebaud, Clifton | | 1 1 0 |

TRIAL OF THE AMISTAD.

Washington City, February 22nd, 1841.

This important trial was finally commenced on Saturday last, all the judges being present. The sitting on Saturday was occupied by the attorney-general, H. D. Gilpin Esq., on behalf of the United States, until the hour of two, when the court adjourned as a personal favour to Mr. Adams, and by his request.

Mr. Gilpin gave, from the printed copy of the record and the Congressional document, No. 185, of last session, a detailed narrative of the events connected with the case, in the order of time. He began with the coasting license of the Amistad, dated 18th May, 1838; the permit to Montes, 30th April, 1839, and to Ruiz, 14th June, 1839, to proceed in the schooner to Havana. Then, 22nd June, the passport or license to three ladinos, belonging to Montes, to proceed to Porto Principe in the schooner, and signed by Espeleta, governor-general. Also, a similar license 28th June, to forty-nine ladinos belonging to Jose Ruiz. The same day an endorsement on the passport of Ruiz, that it had been presented at the proper office in Havana. June 27th, the certificate and register countersigned by Martinez, the commandant of the port. Same day, the clearance of the captain, crew, and fifty-four passengers, signed by Martinez. Also a certificate that the captain, crew, and fifty-four passengers passed the Moro Castle. The next incident is the revolt, with the killing of the captain and cook, July 1st.

26th August, the Amistad arrived at Culloden Point, anchored on the high seas, within the Admiralty jurisdiction of the United States Courts, and was taken possession of by Lieut. Gedney, of the United States brig Washington; on the 29th she was delivered to the United States marshal, at New London, and a warrant was issued against the Africans, under which they were imprisoned to take their trial for murder and piracy on the high seas. The same day, Lieut. Gedney filed his libel for salvage.

Sept. 17th, the United States circuit court sat at Hartford, and on the 18th the habeas corpus was brought by the Africans. The district court also sat on that day, when Ruiz and Montes filed their claim to the Africans as slaves legally purchased and held as such in Cuba, and their property, which was bound to be restored to them by treaty. Under these libels or claims, the marshal took them into custody by warrant of the court, they being already in custody under the libel of Gedney. In his return, he calls them "the said slaves named in the libel." On the 19th, the United States district attorney filed a libel on behalf of the government, averring that the minister of her Catholic Majesty had claimed them as the property of Spanish subjects, taken possession of by officers of the United States, under such circumstances as made it the duty of the United States to return them; and praying the court to make such decree as will enable the government to comply with the treaty, and preserve the public faith inviolate; or, if they should be found to have been brought into the country in violation of the laws against the slave-trade, then they should be placed in the hands of the President, to be disposed of according to the Act of Congress of 1819. Under this libel the marshal again took possession of the negroes.

Sept. 20, the indictments were laid before the grand jury, but were not found by the jury.

Sept. 23.—The habeas corpus was dismissed by the circuit court, both courts adjourned and all criminal proceedings were at an end, and the case remained only under the several libels.

Nov. 19.—The district court met again, the United States attorney filed a second libel, and the Spanish vice-consul put in a claim to the boy, Antonio, on behalf of the heirs of Captain Ferrer. The negroes filed their several pleas to the jurisdiction of the court, setting forth that they were free, were kidnapped, carried to Cuba, unlawfully sold there, never subject to the laws of Spain, but put by force on board the Amistad to be

carried they knew not where, as slaves; and, in the exercise of that love of liberty natural to all men, they rose, killed the captain, took possession of the vessel, and determined to return to their own country, as they had a right to do.

Jan. 7, 1840, the trial before the district court, in the course of which the district attorney entered on the record his admission that the Africans were bozals. Judge Judson decreed that the schooner and cargo were Spanish, and that Gedney and his associates should receive salvage; also that the negroes were not the property of Ruiz and Montes, but were free, and, having been imported unlawfully from Africa, should be placed in the hands of the President to be sent back, under the act of congress. From this decree the United States appealed.

After giving this summary, which took about three hours, Mr Baldwin read his motion to dismiss the appeal, on the ground, 1. That the United States have no right by their constitution or laws, or the laws of nations, to take an appeal, or to take any proceedings to procure the surrendering of the respondents as slaves; 2. That there was no demand made by the Spanish minister for them as slaves, and no appearance authorized by him, or on his behalf, against them as slaves; 3. That the United States government had no right to surrender them for trial; and 4. That, in any view, the appeal could not be tried here, because the several appellees were not, individually, of the value of 2000 dollars.

On Monday, the attorney general briefly recapitulated the evidence and substance of the decree of the court below, which had been affirmed *pro forma* in the circuit court, and then stated the points which he considered to be established. They were, that the vessel and cargo at Havana were the ascertained property of Spanish subjects; that slavery is allowed there, and slaves are property; that these particular negroes were there certified by the governor-general, the highest official authority on the island, to be *ladinos*, and the property of Ruiz and Montes, who had a regular permit to ship them on board the Amistad. This vessel, thus certified, and these negroes in charge of the persons certified to be their owners, were regularly cleared, with the proper papers. Here then was the complete documentary evidence of property, ascertained by the highest official evidence. On the 26th of August, the vessel not having changed in any respect her national character, her papers all on board, and the certified owners of these negroes on board, and in possession of the property which they were thus officially shown to be entitled to hold by the laws of Cuba, were taken possession of by a public armed vessel of the United States, and delivered to the proper tribunals. At this point, the minister of Spain interferes, and demands that, according to the provisions of the treaty, the vessel, cargo, and negroes shall be delivered to his charge for the owners.

The only inquiries then are, 1. Whether due and sufficient proof has been made of the property in the vessel, cargo, and negroes? And—

2. Have the United States a right to interfere, as they have done in this case, to obtain the restoration of this property to its owners?

He argued that due and sufficient proof of property has been made to authorize the restoration of this property. Property in slaves is held as completely in Cuba as in any one of the United States, and if they are property of Spanish subjects, they must be given up under treaty of 1795, the same as any other property, on proof of ownership. The certificate of the governor-general, that they are slaves, and are the property of the persons named as owners, is conclusive on this point. He is the highest functionary known to the laws of that land, and, as such, his public acts are to be received as evidence of any facts certified by him, within the scope of his authority. Commerce would be at an end, if countries were to refuse full faith to the official documents of the proper authorities of other countries. The question whether these authorities have acted right or wrong cannot be raised here; if it is ascertained by the proper certificate that they have acted within the scope of their authority, whether they be judicial, executive, or any other public functionary, makes no difference. How could the tribunals of our country inquire into the local laws and municipal regulations of another? This doctrine is sustained by the whole course of judicial decisions, both in this court and elsewhere. This court has sustained the decrees of foreign courts, on matters before them, whether this court deemed the decree right or wrong. The principles so well established on this point, can apply to no case more fully than to the present. Here is exactly the evidence that ought to be had, the papers are such as the parties were bound to have, and they are therefore conclusive. The evidence is found by the district court to be sufficient to establish the right of property in the vessel and the goods; why is it not then in regard to the negroes? It was sufficient in the island of Cuba, and therefore ought to be received as sufficient here. It is a settled principle of admiralty proceedings, that the best evidence to be had is the documents accompanying the property, and the courts will always look to that as conclusive where they are regular.

The learned attorney argued further, that there is no different rule of evidence in the case of slave property and any other; that it must have been the understanding of both nations, by the 9th article of the treaty, that slaves were to be restored as any other property; that this court cannot look behind the certificate of the governor-general, to ascertain whether the negroes are recently imported from Africa; that, if they are so imported, they yet are not free by Spanish laws, until judicially declared free by the proper Spanish tribunal; that the allegation of fraud in obtaining the certificate cannot be made here. But, if you go behind the certificate, there is no evidence but hearsay. Dr. Madden's deposition is chiefly hearsay, and has been contradicted in several important particulars. It is upon such grounds that the court will set aside the official records of foreign countries?

On the point whether the executive had a right to interfere, at the request of the public functionary of Spain, the attorney-general urged first, that the executive was bound to interfere, because it was in the execution of a treaty stipulation, and the executive was the proper organ of the government to see to the execution of treaty stipulations. If called upon to restore property, the President was bound to take measures for that purpose. And, if he found it in custody of the courts, he was bound to go to the court, and present the evidence, and require the decision of the court. As to the decree of the court below, it was clearly wrong in awarding salvage on the vessel and cargo, because the treaty is express that property shall be restored entire and without diminution; and therefore no citizen of the United States had any right of salvage under such circumstances. The treaty was as effective as any Act of Congress, because all treaties are

declared by the constitution to be the supreme law of the land. And in regard to the negroes the decree is erroneous, because they are fully shown to be property of Spanish subjects, and ought to have been restored as such, on due proof.

Mr. Gilpin closed at twenty minutes past one, and the remainder of the sitting was occupied by Mr. Baldwin, on behalf of the Africans, in arguing the motion to dismiss the appeal.

Washington City, Feb. 23, 1841.

Mr. Baldwin, in opening his argument, said that, in appearing in behalf of these humble Africans whom he represented, and who are contending for freedom and life, with two powerful governments arrayed against them, it was a source of high gratification that the question will be heard and tried before a tribunal which is elevated high above the influence of executive power or popular prejudice. By its very constitution, it is exempt from all the imputations to which, under other circumstances, courts are subject, imputations such as, he regretted to say, have been most unjustly cast, in certain quarters, on the hon. judge of the district court in Connecticut, before whom this cause was first tried. In a case of this kind, involving the destiny of thirty-six unhappy men, cast by providence on our shores under circumstances calculated to excite the sympathies of all to whom the facts were truly known, he was very sorry that attempts should have been made here, on the very eve of the trial before the court of dernier resort, to disturb the course of justice by appeals to local prejudices and sectional interests; and especially that even the official gazette of the government had stooped to publish imputations upon judicial functionaries, and appeals to prejudice, represented as coming from one of the most commanding minds of the country, calculated to impair the confidence of our own and other nations in the purity and impartiality of this high tribunal. And, what seemed still more grievous, that the accredited minister of a foreign government should, on the very day on which it was expected that this case would come to a hearing before the Judiciary, communicate to the executive department of our government an article from a Spanish newspaper, to have it published to the world, charging upon these unfortunate men the most atrocious crimes, with the intent to have them regarded as monsters in human shape. I do not mention these things, said Mr. Baldwin, because I fear their effect upon this court, but because it is my duty thus publicly to reprobate a course of proceeding, calculated to impair that just confidence which the country has ever been accustomed to repose in the decisions of this court.

This case, said he, is one of deep interest from its circumstances, and is felt as such throughout our whole country, and almost through the civilized world, so extensively have the circumstances become known. But it has an interest on other grounds to our own citizens. It has presented the question of power on the part of the executive, in a manner that has filled men in one portion of the country with alarm and anxiety. It is the first time since this government was formed, founded on the principles of the revolution, that all men are created equal, and have from their Creator certain inalienable rights, and formed expressly to establish justice, it is the first time that the Executive has appeared in court, litigating and appealing from court to court, to consign human beings to slavery. Can the government thus appear before the courts for such an object? I deny it, and trust the courts will not sanction the interference.

In discussing the case, he said he would not appeal to any local prejudice or sectional feeling, nor present a single consideration which he could not hope would obtain the concurrence of every intelligent and upright mind, from every quarter. He was not one of those who thought it right to agitate one section of the country with questions which properly belong to another. He had not come here to address the court on topics calculated to excite the prejudice or wound the feelings of any. At the same time he was in favour of the broadest liberty of inquiry and discussion, although that liberty ought always to be guided by discretion and tempered with kindness.

Before proceeding to argue the motion to dismiss the appeal of the United States, he would advert to the facts as they appear on the record. It appears that the schooner *Amistad* arrived in the waters of the United States, in Long Island Sound, in the possession of the appellees, who are all admitted on the record to be native Africans, recently from Africa. The papers of the vessel show that when she left Havana, there were on board of her fifty-four passengers, of whom the appellees were a part, who were taken on board as slaves under the colour of two custom-house permits, describing them by Spanish names, and as the property of Ruiz and Montes. They were labelled as property by Lieut. Gedney, and claimed as property by Ruiz and Montes, and all the parties in interest were thus regularly before the court, by admiralty proceeding, in a condition to litigate their respective claims. In this stage of the case, the United States come in, and allege that the Spanish minister had made a demand, &c., "which claim was now pending upon the United States," and praying the court, if the slaves were found to be the property of Spanish subjects, to do what was necessary to keep the public faith inviolate or, if they should be found to have been brought in by an infraction of our laws against the slave-trade, then that they should be delivered to the President to be sent back. The court, after a patient investigation, found the facts to be, in all material points, as had been set forth in the plea for the Africans, and that they were entitled to be free; but, as it appeared that Ruiz and Montes, in steering the vessel for the United States, had in view the preservation of their property in the slaves, it was adjudged that they were guilty of violating the slave trade act, and so the Africans were placed at the disposal of the President. The claim of Lieut. Gedney was dismissed, and that of Ruiz and Montes, with costs, and the first part of the claim of the United States. From this decree neither Gedney, nor Ruiz and Montes, nor the Spanish minister acting for them, has taken an appeal. Nobody has appealed but the United States.

The Spanish minister never was a party before the court. He had made a demand upon the executive, not for the delivery of the Africans as property, but for their surrender as criminals. He had protested against the right of the courts to hold jurisdiction over the case, and, so far from having requested the government to litigate the question of property, he confined his argument solely to the duty of the United States to transmit them to Cuba for punishment. The first letter of M. Calderon,

in which the demand was made, not only insists that the negroes should be sent to Cuba for punishment, but he goes into an argument to show how much less salutary will be the effect if they are executed here, of which he seemed to entertain no doubt, than if they are sent to Cuba. Not a word in the letter intimates a demand for their surrender as property. He everywhere keeps up a distinction between the vessel and cargo, and the negroes. Throughout the correspondence, as communicated by the President, both M. Calderon and M. Argaiz protest against the jurisdiction of our courts, and yet the learned attorney-general argues here as if it was the Spanish minister, through the district attorney, who was prosecuting these suits.

Now, said Mr. Baldwin, what has become of Ruiz and Montes? They submitted to the jurisdiction of the district court. No principle is better settled in Admiralty practice, than that a party in court is bound by the decree, unless he appeals. The question whether these Africans are the property of Ruiz and Montes, lies at the foundation of all the proceedings, at the foundation of the claim of the United States; the district court have decided that the property is not in Ruiz or Montes, and they have acquiesced by not taking an appeal.

What right had the executive to interfere? The whole case was fully in the hands of the judiciary, it was the duty of the court to decide, and to see that justice was done. The parties in interest were all there; where, then, is the law which authorizes the executive to interfere, to appear before our judicial tribunals, and make itself a party in questions involving individual rights? Is not the judiciary sovereign in its sphere, and is it not the appropriate department, so recognized and established by the very treaty of 1795, to investigate and determine the question of property and ownership? Was it ever heard of before, that the executive should interfere to stimulate the courts to their duty? What does this appeal of the United States put in issue? This court has decided that on an appeal they will take no notice of any point in the case, not put in issue by the party taking the appeal. The libel of the United States alleges nothing, only the fact that the Spanish minister has demanded that the negroes be given up as the property of Spanish subjects, but the libel does not allege that the Africans are slaves, or are such property. In the case of the *Exchange*, in Dallas's Reports, the United States' attorney filed a suggestion that the vessel seized was a public armed vessel of a power with which we were at peace, and the court thereupon determined that it had no jurisdiction over such a case. But this is a case of private litigation, and, as to all the parties in interest, it is definitively settled by the decree of the court below. The question of freedom or slavery is so settled, as between the Africans and Ruiz and Montes, the only persons who it was ever pretended had a right of property in them.

Look at the consequences of this interference. Ruiz and Montes are mulcted in costs, in the court below; now, can they be allowed to withdraw, and the United States come in their place, and thus deprive other parties of their remedy in costs, and perhaps damages? For it is to be observed that the United States pay no costs, and are responsible in no damages. No department of the government needs to be more carefully guarded against executive encroachment than the judiciary; for no department is less able to protect itself. But if it is to be thus subject to executive interference, what becomes of the security which the framers of the constitution aimed to effect by the distribution of the powers of government?

But, suppose the executive had a right to appear in a private litigation as to property; has it a right to interfere for the re-capture and surrender of fugitive slaves, who have come without wrong into the territory of a free state? Was this the object for which the free states joined in framing our constitution of government? Did they ever consent to such an object? This whole matter of slavery was wisely left to the States, AND TO THEM ALONE. The government of the Union has no power to establish slavery in a state where it does not exist, nor to give extra-territorial force to the slave laws of a foreign nation within the bounds of a free state. I speak not now of cases where slaves in possession of their owners are driven into our ports by stress of weather, and remain in the possession of their owners, nor that the government should interfere to set them at liberty, as was done at Bermuda. That is not this case. These slaves did not come in the possession of Ruiz and Montes, but in the full possession of their liberty, with Ruiz and Montes in subjection to them. And now the claim of the United States is, that the executive is bound to enter upon the territory of the free state of New York, by its naval officers, and seize these men, and carry them by force into another district, and re-enslave them, for the benefit of Spanish negro-dealers. The vessel had been taken by force out of the hands of Spanish subjects, was not sailing under Spanish colours, had lost its national character, and was in the full possession of the Africans. What right had Lieut. Gedney to seize it, or them? That seizure was a wrong, not to Ruiz and Montes, not to Spain, but to the Africans, who were in possession, and had committed no crime for which they were amenable to our authorities.

If Sinqua, when he landed on the shore of New York, was free by the laws of that state, can the United States interfere and change his relations and make him a slave? This is on the supposition that the Africans had been domiciled in a Spanish colony, and were actual slaves by the laws of Spain. But the record shews that they were recently from Africa, and therefore never were subject to those laws. Yet we are asked, as an act of comity, to suppose that there might be some law by which they could be held as property in Cuba. Slavery, as recognized by admiralty courts, is purely local in the territory where it is established, but there is no country now where recently imported Africans are recognized as slaves. If the United States could give extra-territorial force to Spanish laws, it would not be against these Africans.

To the argument that the treaty required the surrender of "merchandise," Mr. Baldwin made a most conclusive and elaborate reply. The same clause was in our treaty with Tripoli. Would a citizen of Tripoli be allowed to hold his white slaves in our courts under that clause? It may be well doubted whether it was ever within the power of the treaty-making department of our government to establish such a right. The fraudulent nature of the transaction at the Havana Custom House, in first shipping the negroes as *ladinos* with Spanish names, to evade the local laws, and then clearing them as "passengers for government," to elude the British cruisers, was strongly argued. But I cannot give even an outline of what is by general consent acknowledged to have been one of the most

complete, finished, conclusive legal arguments ever made before that court. I felt that it was an honour to my country and her courts, an honour to the science of law and the jurisprudence of christian nations, that a foundation was laid by them for such an argument.

Mr. Baldwin closed about twenty minutes after three o'clock, by paying a deserved tribute to the illustrious individual who was to present the remainder of the topics in the case;—who, after having filled the highest office in this or any nation, thought it yet a higher honour to appear in vindication of the rights of these unhappy foreigners, the honour of the country, and the character of our free institutions. J. L.

Washington City, Feb. 24th, 1841.

Mr. Adams spoke to-day about three hours and a half, and paused for the court to adjourn. I have copious notes of the whole, covering fifty post pages, not written very compactly, it is true, but sufficient to enable me, I hope to give hereafter a tolerable view of the whole argument. Of course you will not expect from me aught beyond a meagre skeleton of the performance, which, I may say, has surpassed the most raised expectations in regard to its interest and power, and the skill with which the argument has been carried forward to its object. His exordium was in something like the following words:

May it please your honours—

In rising to address this court, as one of its attorneys and counsellors regularly admitted at a great distance of time, I feel that an apology might well be expected for my appearance, where I shall perhaps be more likely to exhibit at once the infirmities of age and the inexperience of youth, than to render those services to the individuals whose lives and liberties are at the disposal of this court which I would most earnestly desire to render. But, as I am unwilling to employ one moment of the time of the court in anything that regards my own personal situation, I shall reserve what few observations I may think necessary to offer as an apology, till the close of my argument on the merits of the question.

I therefore proceed immediately to say, that, in a consideration of this case, I derive, in the distress I feel both for myself and my clients, consolation from two sources; first, that the rights of my clients to their lives and liberties have already been defended by my learned friend and colleague in so able and complete a manner as leaves me scarcely anything to say, and I feel that such full justice has been done to their interests, that any fault or imperfection of mine will be merely attributed to its true cause; and secondly, I derive consolation from the thought that this court is a court of JUSTICE. And in saying so very trivial a thing, I should not on any other occasion, perhaps, be warranted in asking the court to consider what justice is. Justice, as defined by the institutes of Justinian, nearly two thousand years ago, and as it is felt and understood by all who understand human relations and human rights, is

"Constant et perpetua voluntas, jus suum cuique tribuere."

"A constant and perpetual will to render TO EVERY ONE that which is his own."

And in a court of justice, where there are two parties present, justice demands that the rights of each party should be allowed to himself, as well as that each party has a right to be secured and protected by the court. This observation is important, because I appear here on behalf of thirty-six individuals, the life and the liberty of every one of whom depends on the decision of this court. The court, therefore, I trust, in deciding this case, will form no lumping judgment but will act on the consideration that the life and the liberty of every one of the thirty-six individuals, must be determined by its decision.

They are here, individually, under very different circumstances, and in very different characters. Some are in one predicament, some in another. In some of the proceedings by which they have been brought into the custody and under the protection of this court, thirty-two or three of them have been charged with the crime of murder. Three or four of them are female children, incapable, in the judgment of our laws, of the crime of murder, or piracy, or perhaps, of any other crime. Yet, from the day when the vessel was taken possession of by one of our naval officers, they have all been held as close prisoners, now for the period of eighteen long months, under custody and by authority of the courts of the United States. I trust, therefore, that before the ultimate decision of this court is established, its honorable members will pay due attention to the circumstances and condition of every individual concerned.

When I say I derive consolation from the consideration that I stand before a court of justice, I am obliged to take this ground, because, as I shall show, another department of the government of the United States has taken, with reference to this case, the ground of utter injustice; and these individuals for whom I appear stand before this court, awaiting their fate for its decision, under the array of the whole executive power of this nation against them, in addition to that of a foreign nation. And here arises a consideration, the most painful of all others in considering the duty I have to discharge, in which, in supporting the motion to dismiss the appeal, I shall be obliged not only to investigate and submit to the censure of this court the form and manner of the proceedings of the executive in this case, but the validity and the motive of the reasons assigned for its interference in this unusual manner, in a suit between parties for their individual rights. At an early period of my life, it was my fortune to witness one of the tragedies of the great dramatist of England, I may say the great dramatist of the world, where I heard Lord Surrey heaping reproaches upon Cardinal Wolsey, at the moment of his disgrace and loss of favour with his sovereign; and the Lord Chamberlain checks him saying, "O, my lord, press not a falling man too far; 'tis virtue." I was struck with the sentiment, and have ever looked upon it as a lesson of morals which I hope to carry to my grave.

It is peculiarly painful to me, under present circumstances, to be under the necessity of arraigning before this court, and before the civilized world, the course of the existing administration in this case. But I must do it. That government is still in power, and, subject to the control of the court, has the lives and liberties of all my clients in its hands. And if I should pass over the course it has pursued, those who have not had an opportunity to examine the case, and perhaps the court itself, might decide that nothing improper had been done, and that the parties I represent had not been wronged by the course pursued by the executive. In making this charge, or arraignment, as defensive of the rights of my clients. I now proceed to an examination of the correspondence of the secretary of state with the

ambassador of her Catholic Majesty, as officially communicated to congress, and published among the national documents.

Mr. Adams then commenced a "searching operation," of unequalled skill and thoroughness, into the proceedings of the executive, with the reasons assigned. In the letter of Mr. Forsyth, Dec. 18, 1839, in defending the course of the government against the reproaches heaped upon it by the Spanish minister, he says that *all the proceedings* of the government, judicial and executive, have been grounded on the assumption that Ruiz and Montes were *alone* the parties aggrieved. I ask your honours, said Mr. Adams, is this JUSTICE? The Secretary proceeds to describe the sympathy which actuated Lieut. Gedney, and his officers and men, towards the Spanish gentlemen suffering under the lawless violence of their oppressors, and he declares that this sympathetic feeling soon became in a manner national. Here was the motive of the United States for appearing as a party in this suit. And that motive is not JUSTICE, it is sympathy with one party against the other. With too much reason does he call this sympathy national, and it is against this sympathy that I must call upon even this Court to restrain itself—in the name of JUSTICE. One of the judges who presided in some of the preceding trials, is said to have called this an *anomalous* case. It is anomalous, said Mr. Adams, and I know of no law, but one, which I am not at liberty to argue before this court, no law, statute, or constitution, no code, no treaty, applicable to the proceedings of the Executive or the Judiciary, except that law—[pointing, with tremendous emphasis, to the copy of the Declaration of Independence, hanging against one of the pillars of the court-room,] that law, two copies of which are ever before the eyes of your honours. I know of no other law that reaches the case of my clients, but that law of nature, and of nature's God, on which our fathers placed our own national existence. The circumstances are so peculiar, that no code or treaty has provided for such a case. That law, in its application to the case of my clients, I trust will be the law on which the case will be decided by this court.

In commenting upon the first seizure of the vessel, he quoted the senate's resolutions (Calhoun's) of last session, and said, admitting those principles to be true, to what nation did the Amistad belong when taken possession of by the officers of the United States? The Africans were in possession, and had the presumptive right of ownership, they were in peace with the United States; the courts have decided, and truly, that they were not pirates; they were on a voyage to their own native homes, their *dulces Argos*; they had acquired the right, and, so far as their knowledge extended, they had the power of prosecuting their voyage; the ship was theirs, and being in immediate communication with the shore, was I believe in the territory of the state of New York, or, if not, at least half of the number were actually on the soil of New York, and entitled to all the provisions of the law of nations, and to the protection, and aid, and comfort, which the laws of that state secure to every human being within her limits. In this situation Lieut. Gedney, without any charge or authority from his government, without warrant of law, by force, by fire-arms, seizes and disarms them, then being in the peace of that commonwealth and of the United States, drives them on board the vessel, seizes the vessel, and transfers it against the will of its possessors to another state. I ask in the name of JUSTICE, by what law was this done? Even admitting that it had been a case of actual piracy, which your courts have properly found it was not, there are questions arising here of the deepest interest to the liberties of the people of this union, and especially of the state of New York. Have the officers of the United States navy a right to seize men by force, on the territory of New York, to fire at them, to overpower them, to disarm them, to put them on board of a vessel, and carry them by force and against their will to another state, without warrant or form of law? I am not arraigning Lieutenant Gedney, but I ask this court, in the name of JUSTICE, to settle it in their minds, by what law it was done, and how far the principle it embraces is to be carried.

In commenting upon the demands first made by the Spanish minister, Don Calderon de la Barca, Mr. Adams adverted to the illustrious standing of his name in the Spanish annals, and to his own friendly relations with him while a resident of this country, and begged to be understood as not intending to treat him personally with disrespect while he examined his demands, as they ought to appear in the eyes of an American executive or an American court. M. Calderon then demands, 1, that the vessel shall be delivered to her owner—who was killed; 2, that it should be declared by the president that no court could try the negroes, but that he should keep them safely, and send them to Cuba for punishment; and 3, that they should be delivered up to their owners, or the latter indemnified. In what position does he place the president of the United States? First, he is to turn jailor and keep these men safely, and then to become a tipstaff and carry them to Cuba, to be tried by the slave holders of the baracoons. Was ever such a demand made upon a civilized government? If the president had arbitrary and unlimited power, he could not satisfy all these demands. And if he could send forty Africans beyond the seas by his own *lettres de cachet*, he could send forty American citizens as well by the same power.

In commenting upon article 9 of the treaty of 1795, on which the United States government has rested its claim for the restoration of these Africans as merchandize rescued out of the hands of robbers, he said he spoke of his own knowledge with regard to the objects of the Article, having himself negotiated the revision and renewal of this very treaty, in 1819; and there was never such an idea passed between him and the Spanish minister of that day, as that this clause was to include persons as merchandize. The courts below have decided that they have no right to consider these Africans as pirates and robbers. If the sympathies of the government and the nation had been impartial, in what light would Ruiz and Montes have appeared? These Africans had been torn from their own country, shipped at Lomboko against the laws of Spain, against the laws of the United States, against the laws of nations—as far as the United States and Spain and Great Britain were concerned—they were in fact and in law on the continuation of the original voyage, they were in a perishing condition, dropping dead from day to day, no less than sixteen having died of the treatment they received from Ruiz and Montes before they reached our shores, while, during the last fourteen months, not one has died in an American prison. The moment they were restored to the absolute wants of human nature, furnished by the tenderness of our laws, the mortality ceased, and they have enjoyed perfect health.

At the great day of account, said Mr. Adams, who is to be responsible for the souls of these sixteen men that died? Ruiz claims them as his merchandise. Who, in the closing hour of his life, would have those sixteen passing before his eyes and exclaiming, "Let me sit heavy on thy soul to-morrow?" Who, then, were the oppressors and robbers from whom this vessel was rescued?

The article cannot apply to human beings. It says the ships and merchandise shall be restored *entire*. Is that treaty made between cannibal nations, and does it intend to stipulate that, when human merchandise is restored, the legs and arms shall not be cut off? This single word "*entire*" is sufficient to exclude human beings from the scope of the article. But it says merchandise, rescued from robbers. Who are the robbers, and what is the merchandise? According to the construction of the Spanish minister, the merchandise is the robbers, and the robbers are the merchandise; the merchandise was rescued out of its own hand, and the robbers were rescued out of the hand of the merchandise. These Africans are themselves the robbers, out of whose hands they themselves have been rescued. Is this the meaning of the treaty?

With regard to article 10 of the treaty, he showed that, if it applied to any party, it was to the Africans, who were in possession of the ship, and who were pursuing a *lawful* voyage, while that of Ruiz and Montes was clearly unlawful. The treaty says they shall be treated as our own citizens. Suppose the case had been an American vessel, a Baltimore clipper, fitted out for the African slave-trade, and had performed its voyage, directly or indirectly, and, with fifty-four African victims on board, had been taken possession of by our cruisers, how would our own citizens have been treated? The captain would have been seized and *hung*. No appeal before this court could have saved him. Is that the provision of the 10th article, which is sought to be applied in behalf of Ruiz and Montes? Perhaps it would be a nearer reward for their merits than the restoration of these poor negroes to their power would be, or any other act enabling them to complete their voyage.

Washington Feb. 25th, 1841.

After having shown the absurdity of the pretext that the treaty afforded any ground for the surrender of the Africans as merchandise, or as a part of the cargo of the vessel, Mr. Adams proceeded to examine the other arguments urged by M. Calderon de la Barca upon the American secretary of state, to induce him to send these unfortunate men to Cuba, to meet the justice of the barracoons. One was, that if these men were suffered to go unpunished after what they had done, it would greatly endanger the safety of the island of Cuba, where the citizens of the United States have so extensive a trade, and where numbers of them own properties, which they cultivate by the labour of slaves. I submit to your honours, said Mr. Adams, that the Spanish minister has no right to appeal to the courts of this country to pass a particular sentence between parties before them, on the consideration of their personal interest, or that of other American citizens in slave property in Cuba. What will become of the liberties of this country, if our courts are to pass sentence affecting individual rights, upon a consideration of the effect their decision may have upon the interests of American citizens in all parts of the world where they are scattered; for if it applies in the case of American interests in Cuba, it is equally applicable in regard to interests in China, Hindostan, or the Feejee islands. It is no proper argument for the Spanish minister to address to the secretary of state. It was undoubtedly calculated and designed to appeal strongly to the *sympathy* which the secretary speaks of, and which he says had well nigh become national. It was well calculated to excite and influence the secretary of state, not only in regard to supposed American interests in Cuba, but perhaps also in regard to interests that might be supposed to be nearer home. But was it JUSTICE? Was it a ground on which courts will decide causes? I trust not.

The Spanish minister proceeds to say, that the influence of capital punishment inflicted in this country, which he seems not to have entertained a doubt would be promptly dealt out to these Africans, would not be attended with the same salutary effects as if inflicted in Cuba. The indemnification, says he, which I officially ask in that case to the owners of the slaves would be but a slender compensation—for, though the property of individuals might be unimpaired, the satisfaction due to public justice is not accorded. And that, said Mr. Adams, is the reason why the president of the United States was asked to issue his *lettres de cachet*, and send these unfortunate individuals to Cuba. There are some other passages in this letter, said Mr. Adams, which I had rather your honours would read when you are together in your apartment for consultation. I hope the court will read them, but I had rather not trust myself to comment upon them as they deserve. Your honours, in the pursuit of JUSTICE, will read them, and will see why I abstain from doing it.

The Spanish minister concludes by referring to the readiness with which the Spanish authorities would accord to citizens of the United States any fugitive slaves who might be found in the island of Cuba. And was this, said Mr. Adams, an argument to be addressed to the secretary of state of the United States? Is it upon these principles that this case is to be decided? Is it by the offer of such an equivalent that our government is to be persuaded to deliver over these unhappy men? "If you will deliver these negroes to me, for whose blood all the slave-traders of Cuba thirst, any slave from the southern states who shall take refuge in the island of Cuba will be readily given up." What is this argument, as addressed to the secretary of state? It is, that it would be a very easy thing for the governor-general of Cuba to seize a fugitive slave, or pretended slave from the south, and put him on board of a vessel, and send him to one of the southern states. It may be so. It appears from one of the authorities read by the learned attorney-general, that this governor has royal power—that he is in fact equal to the king, and it may be easy for him to do such a thing to any man, black or white, slave or free. But is that to be done by the president of the United States, or to be required of him? If it is, I should hope he would wait for some more explicit stipulations than appear in the treaty of 1795. It was quite enough, one would think, to require the president of the United States to keep these men safely, and to send them back speedily, without making this—what shall I call it?—this offer to send back the slaves of the south, if the president will deliver up these Africans to the authorities of Cuba.

Now, may it please your honours, we are to inquire, what was it the duty of the secretary of state to do, on receiving such a demand? What did he do? His first act was to misrepresent the demand, and write to the district attorney of the United States for Connecticut, directing him to pursue a

claim for these negroes to be delivered up as property, because the Spanish minister had demanded them to be given up under the treaty. That is what he did, when it is apparent that the Spanish minister had made no such demand, and he ordered the district attorney to take care that no decision of the district court, or of any other, should place them beyond the control of the executive. That is what he did. And the consequence is the appearance of this case before the court. The attorney of the United States pursued his orders. He stated in his libel, that the Spanish minister had demanded the restoration of the negroes as the property of Spanish subjects. And then, as if conscious that this process might not be sufficient to effect the other branch of his instructions, to wit, to prevent the negroes from being "placed beyond the control of the executive," he added another claim, of his own accord, as far as appears, that if the court should find them not to be slaves, they should be placed at the disposal of the president, for a violation of the laws against the slave trade. That was the execution of his order to *take care* that no court should place them beyond the control of the executive.

In a subsequent stage of the proceedings, the district attorney filed another libel, in which he left out this alternative demand. Why was this? I can conceive of no reason, but that he had been so instructed by the secretary of state. These instructions do not appear in the printed documents communicated by the president to congress. But it does not follow that no such instructions were given. That document is not a full communication of all the papers in the case, as I know of my own knowledge. The resolution calling for the papers contained the usual exception of papers that cannot be published consistently with the public interest—and under that exception papers were kept back. The amount is, however, that the executive did not choose to hold itself responsible for the alternative demand. This appears by the bringing of this appeal by the United States. What has the United States appealed from? The district attorney knew that the libel, founded on the claim of the Spanish minister, falsified as that claim was by the secretary, was not sufficient to keep these Africans from being placed beyond the control of the executive, and he therefore inserted the other count.

Well, the district court examined the case, and dissipated every pretension that these negroes could be held as merchandise. The only *ladino* concerning whom there was any pretence that he was a slave, the court decreed should be given up. We do not appeal from that decree, although I confess, had I been of counsel in that stage of the proceedings, I should have been much disposed to appeal, on the ground that there is no article in the treaty which, by any possible construction, can apply to persons as merchandise, or that had any thing to do with the restoration of this boy, and the decree was not warranted by law or treaty. Indeed, the district judge seems to have felt the same difficulty, for he inserted in his decree that the boy was desirous of returning, and as *volenti non fit injuria*, I reconcile my mind to that part of the decision, for I could certainly have no possible motive to interfere with the wishes of the boy to return. And now, so strange, so singular is every thing that happens in connexion with this case; I understand that the boy has not returned, but remains now in the custody of the officers of the court! And I feel bound, as an individual, to protest against his being delivered up to the representatives of his late master on any grounds arising out of the treaty, which, I maintain, has no application whatever to the case.

And now, what answer ought the secretary of state to have returned to these demands? It was his duty instantaneously to answer the Spanish minister, by telling him that every one of his demands was utterly inadmissible, and that the president of the United States had it not in his power to do any one of all these things he had required. He would not deliver the ship to her owner—he was dead—there was no owner—and there was no duty of the United States to dispose of the vessel in that manner. As to the question of salvage, that depended on the court before which the case was pending for trial according to law. The proclamation required of the president, or the declaration that no court of the United States had authority to try the case, was not only inadmissible, but an offensive demand—it was calling upon the president to usurp a control over the judiciary, which he could not exercise but by the overthrow of the whole constitution generally, and, in every particular, all the rights of the nation, and all the rights of the states. And as to the delivering up of the negroes, that was equally inadmissible, for the president had no such power to arrest or deliver up any person whatever.

But this demand is insignificant, in comparison with the other—that the president should himself send them beyond the sea for trial. He should have called upon the Spanish ambassador to name an instance in the history of nations, where such a demand had been made by any government of another and independent nation. To make the president of the United States, not the head of a nation, but a constable, a catch-pole—a character not possible to be named in gentlemanly language! Yet that is what this demand makes of the president of the United States. And the secretary should have set the Spanish minister right with regard to the tribunal before which these questions were pending, by showing him that it was not a state court, but a court of the United States, sitting in the district of Connecticut. And now, from that day to this, the secretary of state has never answered one of these demands, nor arrested one of these misapprehensions, nor asserted the rights and the honour of the nation against one of these most extraordinary, inadmissible, and insolent demands. He has degraded the country, in the face of the whole civilized world, not only by allowing these demands to remain unanswered, but by proceeding, I am obliged to say, throughout the whole transaction, as if the executive were earnestly desirous to comply with every one of the demands. In the very misrepresentations of those demands, in his instructions to the district attorney, under which this case is brought here, why does he take such a course? The Spanish minister pronounced the court before which the secretary brought the question an incompetent tribunal—and this position has been maintained by the legation of Spain down to this very month, that a letter of Chevalier d'Argaiz officially protests against the jurisdiction of the courts, before which the secretary professes to be prosecuting the claim of this very minister!

Why does the Spanish minister persist in such inadmissible pretensions? It is because they were not met *in limine* in a proper manner—because he was not told instantly, without the delay of an hour, that this government could never admit such claims, and would be offended if they were repeated, or any portion of them. Yet all these claims, monstrous, absurd, and inadmissible as they are, have been urged and repeated for

eighteen months upon our government, and an American secretary of state *evades* answering any of them—evades it to such an extent that the Spanish minister *reproaches* him for not meeting his arguments!

Washington, March 1, 1841.

Mr. Adams resumed his plea in behalf of the African captives of the *Amistad*. He commenced by briefly re-stating the course of argument which he had thought it his duty to adopt, first appealing to this court as a court of JUSTICE, and then showing with what injustice his clients had met from the executive of the government, which injustice he traced to its source, a strong sympathy with one of the parties in interest and against the other. He took the occasion to disclaim all feelings of personal unkindness towards the president, or the secretary of state, or any of the cabinet, relative to the case. With every one of them he had lived in private intercourse, on terms of the most friendly character. And as to their political differences, they must pass for what they were worth. At the very moment of the expiration of this administration, he felt extreme reluctance at bringing its conduct before the court. He appealed to his learned friend the attorney-general, to bear witness that he was not voluntary in doing it. He had even descended to personal solicitation that he might be spared the necessity of appearing, by a consent on the part of the executive to a dismissal of the appeal, and allowing the matter to rest on the decision of the court below. But he had failed in his effort, and painful as it was, he would do justice to his clients, whose lives and liberties were now depending upon the decision of this court.

At the close of my argument the other day, said he, I was commenting upon the complaints of the Chevalier de Argaiz, in his letter to the secretary of state of the 25th December, 1839. In that letter he complains of the injustice done to two of the subjects of her Catholic Majesty, who were arrested in the city of New York in a suit commenced on behalf of some of these Africans.

"The secretary of state, however, says 'that he cannot but perceive with regret that the Chevalier de Argaiz has not formed an accurate conception of the true character of the question, nor of the rules by which, under the constitutional institutions of this country, the examination of it must be conducted.' Possibly the undersigned may not have formed such an accurate conception of this affair, since it has been carried within the circle of the subtleties, as he has not pursued the profession of the law; but he is well persuaded that, if the crew of the *Amistad* had been composed of white men, the court or the corporation to which the government of the Union might have submitted the examination of the question would have observed the rules by which it should be conducted under the constitutional institutions of the country, and would have limited itself to the ascertainment of the facts of the murders committed on the 30th of June; and the undersigned does not comprehend the privilege enjoyed by negroes, in favour of whom an interminable suit is commenced, in which everything is deposed by every person who pleases; and, for that object, an English doctor, who accuses the Spanish government of not complying with its treaties, and calumniates the captain-general of the island of Cuba, by charging him with bribery."

This English Doctor is Dr. Madden, whose testimony is given in the record. He certainly does not charge the captain-general with bribery, although he says that both he and the other authorities of Cuba are in the habit of winking or conniving at the slave-trade. That this is the actual state of affairs, I submit to the court, is a matter of history. And I call the attention of the court to this fact, as one of the worst points of this case. It is universally known that the trade is actually carried on contrary to the laws of Spain, but by the general connivance of the governor-general and all the authorities and the people of the island. The case of this very vessel, the visit of Ruiz and Montes to the barracoon in which these people were confined, the vessel in which they were brought from Africa, are all matters of history. I have a document which was communicated by the British government to the parliament, which narrates the whole transaction. Mr. Adams here read from the parliamentary documents a letter from Mr. Jerningham, the British minister at Madrid, to the Spanish secretary of state, dated January 5th, 1840, describing the voyage of the *Tecora* from Africa—the purchase of these Africans who were brought in her, with the subsequent occurrences, and urging the Spanish government to take measures, both for their liberation, and to enforce the laws of Spain against Ruiz and Montes.

He says, "I have consequently been instructed by my government to call upon the government of her Catholic Majesty to issue, with as little delay as possible, strict orders to the authorities of Cuba, that, if the request of the Spanish minister at Washington be complied with, these negroes may be put in possession of the liberty of which they were deprived, and to the recovery of which they have an undeniable title."

"I am further directed to express the just expectations of her Majesty's government, that the government of her Catholic Majesty will cause the laws against the slave-trade to be enforced against Messrs. Jose Ruiz and Pedro Montes, who purchased these newly imported negroes, and against all such other Spanish subjects as have been concerned in this nefarious transaction."

These facts, said Mr. Adams, must be well known to the Spanish minister. If he complains of injustice in the charge of general connivance made by Dr. Madden, why has he not undertaken to prove that it is a calumny? Not the slightest attempt has been made to bring forward any evidence on this point, for the very plain reason that there could be none. The fact of the slave-trade is too notorious to be questioned. I will read, said he, from another high authority, a book filled with valuable and authentic information on the subject of the slave-trade, written by one of the most distinguished philanthropists of Great Britain, Sir Thomas Fowell Buxton. Mr. Adams then read as follows:—

"It is scarcely practicable to ascertain the number of slaves imported into Cuba; it can only be a calculation on, at best, doubtful data. We are continually told by the commissioners, that difficulties are thrown in the way of obtaining correct information in regard to the slave-trade in that island. Everything that artifice, violence, intimidation, popular countenance, and official connivance can do, is done to conceal the extent of the traffic. Our ambassador, Mr. Villiers, April, 1837, says, 'that a privilege (that of entering the harbour after dark) denied to all other vessels, is granted to the slave-trader; and, in short, that with the servants of the government, the misconduct of the persons connected in this trade finds favour and protection. The crews of captured vessels are permitted to

purchase their liberation; and it would seem that the persons concerned in this trade have resolved upon setting the government of the mother country at defiance.' Almost the only specific fact which I can collect from the reports of the commissioners, is the statement, 'that 1835 presents a number of slave-vessels (arriving at the Havana) by which there must have been landed, at the very least, 15,000 negroes.' But in an official letter, dated 28th May, 1836, there is the following remarkable passage:—'I wish I could add, that this list contains even one-fourth of the number of those which have entered after having landed cargoes, or sailed after having refitted in this harbour.' This would give an amount of 60,000 for the Havana alone; but is Havana the only port in Cuba in which negroes are landed? The reverse is notoriously true. The commissioner says, 'I have every reason to believe that several of the other ports of Cuba, more particularly the distant city of St. Jago de Cuba, carry on the traffic to a considerable extent.' Indeed it is stated by Mr. Hardy, the consul at St. Jago, in a letter to Lord Palmerston, of the 18th February, 1837, 'that the Portuguese brig *Boca Negra*, landed on the 6th inst. at Juragua, a little to windward of this port (St. Jago) 400 Africans of all ages, and subsequently entered this port.' But in order that we may be assuredly within the mark, no claim shall be made on account of these distant ports. Confining ourselves to the Havana, it would seem probable, if it be not demonstrated, that the number for that port, *a fortiori*, for the whole island, may fairly be estimated at 60,000."

This evidence is important to show what is the real value of this certificate of the governor-general. There is one other proof which I will read to the court, and leave it to your honors to judge of its bearing, and of the conclusion to which it arrives. It is the statement of the Spanish vice consul, Mr. Vega.

"The following statement was made to me by A. G. Vega, Esq., Spanish consul, as near as I can now recollect, and according to my best knowledge and belief, 10th January, 1840.

W. S. HOLABIRD.

"That he is a Spanish subject; that he resided in the island of Cuba several years, that he knows the laws of that island on the subject of slavery; that there was no law that was considered in force in the island of Cuba, that prohibited the bringing in African slaves; that the court of mixed commissioners had no jurisdiction except in case of capture on the sea; that newly imported African negroes were constantly brought to the island, and after landing were *bond fide* transferred from one owner to another, without any interference by the local authorities or the mixed commission, and were held by the owners and recognized as lawful property; that slavery was recognized in Cuba by all the laws that were considered in force there; that the native language of the slaves was kept up on some plantations for years. That the barracoons are public markets, where all descriptions of slaves are sold and bought; that the papers of the *Amistad* are genuine, and are in the usual form; that it was not necessary to practise any fraud to obtain such papers from the proper officers of the government; that none of the papers of the *Amistad* are signed by Martinez, spoken of by R. R. Madden, in his deposition; that he (Martinez) did not hold the office from whence that paper issued."

This is the statement given to the district attorney by Mr. Vega, and by him made a part of this case. This Spanish functionary declares positively, that he knows there is no law in force in Cuba against the African slave-trade, and that recent Africans are held and sold *bond fide* as slaves. It is conclusive to prove this fact, that the illegal importation and purchase of Africans is openly practised in Cuba, although it is contrary to the laws of Spain, but those laws are not considered in force, that is, the violation of them is constantly connived at by the authorities.

It may not be universally known, but is doubtless known to members of this court, that there is a volume of correspondence on this subject by our consul at Havana, which will be communicated to Congress for publication in a few days, and I can state from my personal knowledge that it confirms every word of Dr. Madden's statements on this point, and will show how much reliance is to be placed on this certificate of the governor-general.

But I will return to the letter of the Chevalier de Argaiz. I have not the honour of knowing this gentleman personally, as I knew his predecessor, but I certainly entertain no feeling of unkindness towards him. And in examining his correspondence, although it is my duty to show that his demands are utterly inadmissible and unprecedented, yet it must be admitted, that his sympathy and partiality for his own countrymen are at least natural; and, if his zeal and earnestness are somewhat excessive, they are at least pardonable. There is in this letter, I must say, a simplicity, what the French call *bonhomie*, which gives me a favourable impression of his character, and I certainly feel the farthest possible from a disposition to pass any censure on him. I repeat that, so far as this sympathy is concerned, if it is not entirely excusable, it is much more reasonable than it is in some others who have not the same interests to defend. He goes on to express his pleasure at the assurance received from the secretary, that "whatever may be the final settlement of the question, it will be in consequence of a decision emanating from the government, and not from any other source;" and he adds, that "he doubts not such decision will be conformable with the opinion which was confidentially communicated to him at the Department of State on the 19th of November, as founded on that of a learned lawyer, and which he was assured had been adopted by the cabinet."

I take it for granted that the opinion referred to is the opinion of the attorney-general of that time, Mr. Grundy, contained in the congressional document. It will be necessary for me to examine that document before I close, as well as the other papers, and I wish to say that the decision of that gentleman, under the circumstances in which it occurred, has made such an impression on my mind as could not but have disarmed me of any disposition to censure him, if I had before entertained it. It will be a painful duty to me to examine, as I must with the utmost severity, that document. And I shall show that it is such, that neither the courts nor the cabinet ought ever to have acted on it.

In another part of his letter, M. de Argaiz says of Ruiz and Montes, that "they were not exempted from the persecutions of an atrocious intrigue," and the undersigned is not the first who has so styled this persecution." This is a pretty plain intimation that the American secretary of state was the first who called the suit of my clients for legal redress, "an atrocious intrigue," in his "confidential conversation" with the Spanish minister. This is followed by an idea so novel and ingenious,

that it is necessary to repeat the whole of it. After complaining that negroes should be allowed to be complainants, he goes on to argue that they ought to be considered, "morally and legally, as not being in the United States," and of course, if they should be delivered up physically, I suppose it was to be inferred that the executive would not incur any responsibility.

"They are morally and legally not in the United States, because the court of Connecticut has not declared whether or not it is competent to try them. If it should declare itself incompetent, it declares that they are under the cover of the Spanish flag; and, in that case, they are physically under the protection of a friendly government, but morally and legally out of the territory and jurisdiction of the United States; and, so long as a doubt remains on this subject, no judge can admit the complaint. If this argument be of any value with the secretary of state of the government of the Union, the undersigned entreats him to prevail on the president to cause a protest, founded on this argument, to be officially addressed to the court of New York."

His predecessor, M. Calderon, called upon the president for a proclamation forbidding the courts to take up the case, and the present minister of Spain insists that he shall send forth his protest to take it out of the hands of the courts—and this on the ground, that my clients, although personally imprisoned for eighteen months by the United States marshal, under order of the United States court, yet are "not morally and legally in the United States." There is another argument by the same gentleman, very much of the same character. The court will find it in his first letter after the arrest of Ruiz and Montes at New York. He says:

"It would be easy to demonstrate the illegality of these arrests, the orders for which have possibly been obtained from the attorney by surprise: as it would also be easy to show the ignorance of the declarant, Tappan, in declaring that Ruiz is known by the name of Papi, whereas he would have been known and distinguished throughout Spain, as all other Josees are, by the diminutive of Pepe, and thus it appears that a Pepe has been imprisoned instead of a Papi, which I believe the law does not permit."

The argument is certainly ingenious, and, if it is sound at all, it is worth more in favour of the Africans than of the Spaniards, as I may hereafter have occasion to show, when I come to consider the case of nine-and-forty persons with Spanish names, who have been arrested and brought into court by African names.

The Chevalier de Argaiz, in the close of this letter, exhibits his loyalty towards the then acting sovereign of his nation.

"At the moment when the heart of the august Queen-governess is filled with delight on account of the termination of a civil war, and the assurance of the throne of her august daughter, her minister in the United States has to perform the painful duty of diminishing her happiness by communicating to her, as he did by letter on the 19th instant, the disagreeable event which forms the subject of this communication. The desire of calming the disquiet which this news may occasion in the mind of her Majesty, together with that of alleviating the lot of the two prisoners, urge the undersigned to entreat you, Mr. Secretary of State, to take into consideration what he has here set forth, and to afford him the means, in a prompt reply, of satisfying those just desires, which will be completely done if he is able to transmit such a reply to his government, by the packet sailing for Havre on the 1st of November next."

It must doubtless, said Mr. Adams, be some consolation to this loyal minister, to reflect that, before the august Queen-governess could have received the painful intelligence of the imprisonment of two such meritorious subjects as Ruiz and Montes to diminish her happiness, her heart had been gratified in a much better manner. In the pursuit of that happiness for which she longed, it seems that she retired altogether from the cares of state into the comforts of domestic life, with a husband that, I hope, has calmed her disquiet; and if it should ultimately turn out that the lives of these poor Africans are saved, there will be no further occasion to diminish the happiness of the august Queen-governess.

On the 30th December, five days after the date of the letter I have been commenting upon, the Chevalier de Argaiz, wrote again to the secretary of state.

Washington, December, 30th, 1839.

SIR—In the conversation which I had with you on the morning of the day before yesterday, you mentioned the possibility that the court of Connecticut might, at its meeting on the 7th of January next, declare itself incompetent, or order the restitution of the schooner Amistad, with her cargo and the negroes found on board of her; and you then showed me that it would be necessary for the legation of her Catholic Majesty to take charge of them as soon as the court should have pronounced its sentence or resolution; and, although I had the honour to state to you that this legation could not possibly transfer the said negroes to Havana, still it appears proper for me now to declare that—

"Considering that the schooner Amistad cannot make a voyage, on account of the bad condition in which she is, of her being entirely without a crew:

"Considering that it would be difficult to find a vessel of the United States willing to take charge of these negroes, and to transport them to Havana; and also that these negroes have declared before the court of Connecticut that they are not slaves, and that the best means of testing the truth of their allegation is to bring them before the courts of Havana.

"Being at the same time desirous to free the government of the United States from the trouble of keeping the said negroes in prison, I venture to request you to prevail upon the president, to allow to the government of her Catholic Majesty the assistance which it asks under the present circumstances from that of the United States, by placing the negroes found on board of the said schooner, and claimed by this legation, at the disposition of the captain-general of the island of Cuba, transporting them thither in a ship belonging to the United States. Her Catholic Majesty's government, I venture to assert, will receive this act of generosity as a most particular favour, which would serve to strengthen the bonds of good and reciprocal friendship now happily reigning between the two nations."

Here is no longer a demand for the delivery of slaves to their owners, nor for the surrender of the Africans to the Spanish minister as assassins, but an application to the president of the United States, to transport forty individuals beyond the seas, to be tried for their lives. Is there a member of this honourable court that ever heard of such a demand made by a foreign minister on any government? Is there in the whole history of Europe an instance of such a demand made upon an independent

government? I have never in the whole course of my life, in modern or ancient history, met with such a demand by one government on another. Or, if such a demand was ever made, it was when the nation on which it was made was not in the condition of an independent power.

What was this demand? It was that the executive of the United States, on his own authority, without evidence, without warrant of law, should seize, put on board a national armed ship, and send beyond seas, forty men to be tried for their lives. I ask the learned attorney-general in his argument on this point of the case, to show what is to be the bearing of this proceeding on the liberties of the people. I ask him to tell us what authority there is for such an exercise of power by the executive. I ask him if there is any authority for such a proceeding in the case of these unfortunate Africans, which would not be equally available, if any president thought proper to exercise it, to seize and send off forty citizens of the United States. Will he vindicate such an authority? Will this court give it a judicial sanction?

Mr. Adams then concluded his analysis of the course of the executive—the correspondence of the secretary with the district attorney of Connecticut—the suppressed letters of the latter—the opinion of the late attorney-general—the complaints of M. Argaiz that there was any sympathy for the Africans—the alleged confidential conversations of the secretary with the Spanish minister—the suggestion first made by the district attorney of Connecticut in his suppressed letter to the secretary of state—then by the secretary in a confidential conversation to the Spanish minister, which resulted in the formal application of the latter for a ship of war to carry the Africans "beyond seas" for trial; the despatch of the *Grampus* to New Haven, under secret orders, with the direction not to wait for the Africans to appeal. Perhaps I may hereafter give you a brief survey of the whole of this part of the argument, including what is yet behind of his first day's speech. The examination of the opinion of the late attorney-general was considerably minute and very searching. The whole rests on the idea, that the "due faith and credit" which "comity" requires should be paid to the acts of foreign courts and officers, goes so far that a mere passport or custom-house permit is to conclude all courts in regard to all questions of life, liberty, or property, in all countries and between all parties. Papers are to be credited, said Mr. Adams, for that which they purport to do. But whoever supposed that a custom-house permit was evidence of property in him who obtained it? And he referred to decisions of this court to that effect.

After quoting the conclusion to which the attorney-general came, advising that the president should at once issue an order for the delivery of the slaves (as they were assumed to be) to the Spanish authorities, he exclaimed—"for the delivery of these MEN," being at that time in the judicial custody of the courts of the United States! And that is the opinion which the American secretary of state told the Spanish minister the cabinet had adopted! Why did they not act upon it? Why did not the president send an order at once to the marshal to seize these men and ship them beyond seas, or deliver them to the Spanish minister? I am ashamed, said he, I am ashamed of my country, that such an opinion should have been delivered by any public officer, especially by the legal counsellor of the executive. I am ashamed to stand up before the nations of the earth, with such an opinion recorded before us as official, and still more as adopted by the cabinet—which yet DID NOT DARE TO DO THE DEED. Why did they not do it? If it had been done, it would have ended the question at once, at least so far as relates to my unfortunate clients. They would have been wrested from that protection which was of all things their due after they had been taken into the custody of the courts of the country. Why was it not done? There seems to have been an impression still left, that an order like this would require to be enforced by a body of troops. The people of Connecticut never would, never ought to have suffered it to be executed but by main force.

The order of the president, which was given to consign them over to slavery and death, was not signed by him in his official capacity, and Mr. Adams intimated a strong suspicion that the blunder in the first order, of substituting circuit for district court, was corrected in the state department without the knowledge of the president. It was this sympathy, he said, prevailing every where to such a degree as to pervert the understanding of all persons concerned, and blind their minds to all the most sound principles on which the liberties of this nation are founded—leading to a course of action, not only unjust to the persons whose lives and liberties were at stake, but hostile to the independence of the judiciary and the power of the courts.

Mr. Adams then went into a brief but severe examination of the article said to be from one of the brightest intellects of the south, which appeared in the official Gazette of the government on the very day that this court convened.

I will now, said Mr. Adams, make a few observations on the passport, or permit, as it has been called, which is relied on as of authority sufficient to bind this court and government to deliver up my clients irrevocably as slaves, on a claim of property by Ruiz and Montes.* Here we have what

* It is thought best to give a copy of this celebrated passport, as it appears in the congressional documents, with the exception that the interpolate word negroes is omitted, and the portions of the paper which were in writing are printed in italics. It will be seen that the signature of the captain-general, of which so much was made, was printed!

| | | |
|----------------------|---|-------------------------------------------------------|
| Filiacion. | | N. HABANA, 26 de Junio de 1839. |
| | | Concedo licencia a cuarenta y nueva ladinos |
| Estatura | - | nombrados Antonio, Simon, Lucas Jose, Pedro, |
| Edad | - | Martin, Manuel, Andres, Eduardo, Celedonio, Bar- |
| Color | - | tolo, Ramon, Agustin, Evaristo, Casimiro, Melchor- |
| Pelo | - | Gabriel, Santorian, Escolastico, Pascual, Estanis- |
| Frete | - | lao, Desiderio, Nicolas, Esteban, Tomas, Cosme, |
| Cejas | - | Luis, Bartolo, Julian, Frederico, Salustiano, Ladis- |
| Ojos | - | lao, Celestino, Epifanio, Tibureo, Venancio, Fe- |
| Nariz | - | lipo, Francisco, Hipolito, Benito, Ysidoro, Vicen te, |
| Boca | - | Dionisio, Apoloneo, Esequiel, Leon, Julio, Hipolito, |
| Barba | - | y Zenon, de la propiedad de Don Jose Ruiz, para |
| Senales particulares | - | que pasen a Puerto Principe por mar, debiendo |
| | | presentarse con esta al juez territorial respectivo. |

Espeleta—Derecho dos reales—una rubrica. Comandancia de Matriculas. Pasan en la goleta Amistad a la Guanaja, patron Ferver. Habana, y Junio 27, de 1839. MARTINEZ.

appears to be a blank passport, filled up with forty-nine Spanish names, of persons who are described as *ladinos*, and as being the property of Don Jose Ruiz. Now, said he, this on the face of it is an imposture. It is not a passport that can be inspected as such by this court, or by any tribunal. It appears on the face of it to be a passport designed for one person, a man, as there are blanks in the margin to be filled up with a description of the person, as to his height, age, complexion, hair, forehead, eyebrows, eyes, nose, mouth, beard, and particular marks. This particular description of the person is the very essence of a passport, as it is designed to identify the individual by the conformity of his person to the marks given: and a passport is nothing, and is good for nothing, if it does not accord with the marks given. The man who presents it must show by this accordance that he is the person named. Every body who has ever had occasion to use passports knows this. We are not in the habit of using passports in this country; you may go through the country from state to state freely without any passport to show who and what you are, and what is your business. But throughout the continent of Europe passports are everywhere necessary. At every town you show your passport to a public officer, who instantly compares your person with the description, and, if it corresponds, you proceed, but, if the description varies from the reality, you cannot pass. That is the nature of a passport. It says, let the person who bears these marks pass the custom-house or the guard, as the case may be. And its validity depends on the accuracy of the description.

I once had occasion, many years ago, to see the operation of these things in a very remarkable case. I was a passenger in a merchant vessel bound to the north of Europe. In passing through the Sound, at Elsinore, we were arrested by a British squadron, who brought us to, and sent a lieutenant on board to examine our crew. He ordered all the men to be mustered on deck, and the captain had no alternative but to comply. It was a most mortifying scene to an American. Every American seaman was obliged to show his protection, the same thing at sea as a passport on the land, to secure him from impressment by British cruisers. The officer examined every man carefully, to see whether his person corresponded with the description in his protection. He finally found one young man, who was a native of Charlestown, Massachusetts, within ten miles where I was born, but his description was not correct, whether through the blunder of the man who wrote it, or because he had taken another man's protection, I do not know, but the officer said he had a good mind to take him; and, if I had not been on board, as the bearer of a public commission in the service of the government, I have no doubt that man would have been taken, and compelled to serve on board a British man-of-war, solely for the want of correspondence of the description with his person. I mention this to show that the value of a passport, according to the rules of those countries where such things are used, depends on the description of the person, and this is all left blank in the paper here presented us as a passport. There is not a particle of description by which even a single individual named could be identified. It is not worth a groat. I do not say it is a forgery, but I say its incompetency to answer the purpose of a passport is apparent on the face of it. Who knows, or how is this court to ascertain, that the persons named in this paper are the same with those taken in the *Amistad*. No court, no tribunal, no officer, would accept such a document as a passport. And will this court grant its decree in a case affecting both liberty and life on that paper? It is impossible.

I now come to the case of the *Antelope*, as reported in ten Wheaton, 66, and I ask particular attention to this case, not only because it brings a show of authority in favour of the delivering up of slaves, but because I feel bound to entreat the court, whether they find a principle settled by that case or not, to settle the question now upon further and mature consideration. Chief Justice Marshall said expressly, in delivering the opinion of the court, that, as the court was divided, "no principle is settled." If there was a principle settled, and that was in favour of delivering up persons held as slaves by foreign laws, I ask this court to re-examine that principle, and settle it anew. And if, upon re-examination, by what I should deem the greatest misfortune to this country, the court should be divided in this case, as it was in that, I respectfully ask your honours to give your separate opinions, with the reasons. I would not call in question the propriety of the determination of the court in that day severally to withhold their reasons from the public; the state of the matter is now materially altered. It has become a point in which the morals, as well as the liberties of this country, are deeply interested. The public mind acquiesced before in postponing the discussion; but now it is no longer a time for this conservatory course, the question must be met, and judicially decided. I ask, therefore, that, whether the court shall now decide the case or not, the reasons of your honours may be given to the world.

The case of the *Antelope* was an appeal from the circuit court of Georgia. The material facts were as follows; a privateer, called the *Columbia*, sailing under a Venezuelan commission, entered the port of Baltimore in 1819: clandestinely shipped a crew of thirty or forty men; proceeded to sea, hoisted the *Artigan* flag, assuming the name of the *Arroganta*, and prosecuted a voyage along the coast of Africa, her officers and the greater part of her crew being citizens of the United States. Off the coast of Africa she captured an American vessel from Bristol, in Rhode Island, from which she took twenty-five Africans; she also captured several Portuguese vessels, from which she took Africans; and she captured a Spanish vessel, called the *Antelope*, in which she also took a considerable number of Africans. The two vessels then sailed in company to the coast of Brazil, where the *Arroganta* was wrecked, and her master, Metcalf, and a great part of his crew, made prisoners; the rest of the crew, with the armament of the *Arroganta*, were transferred to the *Antelope*, which, thus armed, assumed the name of the *General Ramirez*, under the command of John Smith, a citizen of the United States; and on board this vessel were all the Africans which had been captured by the privateer in the course of her voyage. She was captured by the United States revenue cutter, *Dallas*, Capt. Jackson, and brought into Savannah for adjudication. The Africans at that time were upwards of 280 in number. The vessel and Africans were libelled by the Portuguese and Spanish vice-consuls; and were also claimed by John Smith, as having been captured *jure belli*. They were also claimed by the United States, as having been transported from foreign ports by American citizens, in contravention of the laws of the United States, and as entitled to their freedom by those laws, and by the law of nations. The United States

here, said Mr. Adams, performed a very different part from that which they have assumed in the present case. Then they claimed all the Africans for freedom, and to be sent to the coast of Africa; that was the part then assumed by the Executive Administration of the United States. Capt. Jackson also filed his claim for the bounty given by the law if the Africans should be adjudged to the United States: or for salvage, if they should be adjudged to the foreign consuls.

The court dismissed the claim of John Smith, and the claim of the United States, except to that portion of the Africans taken from the American vessel. The residue to be divided between the Portuguese and Spanish claimants.

No evidence was offered to show which of the Africans were taken from the American vessel, and which from the Spanish and Portuguese; and the court decreed, that, as about one-third of them died, the loss should be averaged among these different classes, and that sixteen should be designated by lot, from the whole number, and delivered over to the marshal, according to the laws of the United States; as being the fair proportion of the twenty-five proved to have been taken from an American vessel.

I ask the attention of this court, said Mr. Adams, to the principle on which the court proceeded to identify this remnant of twenty-five men, who were expressly determined to be freemen, entitled to their liberty by the laws of the land and of nations. The identical persons were directed to be called by lot—yes, by lot—out of a company of 280 men destined to slavery. The liberties of twenty-five men, which the court recognised as their right, were cast back into *hotch-potch*—with 280, and only sixteen drawn out by lot. By lot! Is that *jus suum cuique*? Even in decreeing liberty to sixteen, the court was urged by the overpowering spirit of liberty beyond the evidence in the case; for the testimony shows, that of the twenty-five who were taken from the American vessel, eighteen were dead—dead by the usual effects of the middle passage—in the horrors and sufferings of which my clients have had their full share, as is shown by the mortality that took place among them while in the hands of Ruiz and Montes. The court, however, applied the rule of general average for the dead, and assumed that but nine had died, and decreed that the remaining sixteen should be drawn by lot from the whole 280 of their brethren, who were doomed to slavery.

In delivering the opinion of the supreme court, Chief Justice Marshall said:—

"In prosecuting this appeal, the United States assert no property in themselves. They appear—[would to God, said Mr. Adams, that they appeared so now]—in the character of guardians, or next friends of these Africans, who are brought, without any act of their own, into the bosom of our country, insist on their right to freedom, and submit their claims to the laws of the land and to the tribunals of the nation.

"The courts of Spain and Portugal respectively demand these Africans as slaves, who have, in the regular course of legitimate commerce, been acquired as property by the subjects of their respective sovereigns, and claim their restitution under the laws of the United States.

"In examining claims of this momentous importance—claims in which the sacred rights of liberty and of property come in conflict with each other—which have drawn from the bar a degree of talent and of eloquence worthy of the questions that have been discussed—this court must not yield to feelings which might seduce it from the path of duty, and must obey the mandate of the law.

"That the course of opinion on the slave-trade should be unsettled, ought to excite no surprise. The christian and civilized nations of the world, with whom we have most intercourse, have all been engaged in it. However abhorrent this traffic may be to a mind whose original feelings are not blunted by familiarity with the practice, it has been sanctioned, in modern times, by the laws of all nations who possess distant colonies, each of whom has engaged in it as a common commercial business, which no other could rightfully interrupt. It has claimed all the sanction which could be derived from language and general acquiescence. That trade could not be considered as contrary to the law of nations, which was authorised and protected by the laws of all commercial nations; the right to carry on which was claimed by each and allowed by each.

"The course of unexamined opinion, which was founded on this inveterate usage, received its first check in America—[glory to the land, said Mr. Adams, where this trade first received a check!—and, as some of these states acquired the right of self-government, the traffic was forbidden by most of them. In the beginning of this century several humane and enlightened individuals of Great Britain devoted themselves to the cause of the Africans; and, by frequent appeals to the nation, in which the enormity of this commerce was unveiled and exposed to the public eye, the general sentiment was at length roused against it, and the feelings of justice and humanity, regaining their long-lost ascendancy, prevailed so far in the British parliament as to obtain an act for its abolition. The utmost efforts of the British government, as well as of that of the United States, have since been assiduously employed in its suppression. It has been denounced by both in terms of great severity; and those concerned in it are subjected to the heaviest penalties which law can inflict. In addition to these measures operating on their own people, they have used all their influence to bring other nations into the same system, and to interdict this trade by the consent of all.

"Public sentiment has, in both countries, kept pace with the measures of government; and the opinion is extensively, if not universally entertained, that this unnatural traffic ought to be suppressed. While its illegality is asserted by some governments, but not admitted by all, while the detestation in which it is held is growing daily, and even those nations who tolerate it in fact almost disavow their own conduct, and rather connive at than legalise the acts of their subjects; it is not wonderful that public feeling should march somewhat in advance of strict law, and that opposite opinions should be entertained on the precise cases in which our own laws may contest and limit the practice of others. Indeed, we ought not to be surprised if, on this novel series of cases, even courts of justice should, in some instances, have carried the principle of suppression further than a more deliberate consideration of the subject could justify."

Said Mr. Adams—I pass over the cases cited by the court, of the *Amie*, the *Fortuna*, and the *Diana*; your honours will have the book before you, and will come down to the case of the *Louis*, in *Dodson's Rep.* 238, where Sir William Scott, after full consideration, lays down the

broad principle, that the right of search is a right strictly belligerent in its character, which can never be exercised by a nation at peace, except against professed pirates, who are the enemies of the human race. The act of trading in slaves, however detestable, was not, he said, "the act of freebooters, enemies of the human race, renouncing every country in its coasts and vessels indiscriminately;" it was not piracy. He also said, that this trade could not be pronounced contrary to the law of nations. "A court, in the administration of law, cannot attribute criminality to an act where the law imputes none. It must look to the legal standard of criminality; and, upon a question of this nature, that standard must be found in the law of nations, as fixed and evidenced by general, and ancient, and admitted practice, by treaties, and by the general tenor of laws and ordinances, and the formal transactions of civilized states; and, looking to these authorities, he found a difficulty in maintaining that the transaction was legally criminal."

"The question, whether the slave-trade is prohibited by the law of nations has been seriously propounded, and both the affirmative and negative of the proposition have been maintained with equal earnestness. That it is contrary to the law of nature,"—your honours will observe, said Mr. Adams, this is not Sir William Scott, but the supreme court of the United States, speaking by Chief Justice Marshall—"that it is contrary to the law of nature will scarcely be denied. That every man has a natural right to the fruits of his own labour is generally admitted; and that no other person can rightfully deprive him of those fruits, and appropriate them against his will, seems to be the necessary result of this admission. But from the earliest times war has existed, and war confers rights in which all have acquiesced. Among the most enlightened nations of antiquity, one of these was that the victor might enslave the vanquished. This, which was the usage of all, could not be pronounced repugnant to the law of nations, which is certainly to be tried by the test of general usage. That which has received the assent of all must be the law of all. Slavery, then, has its origin in force; but, as the world has agreed that it is a legitimate result of force, the state of things which is thus produced by general consent cannot be pronounced unlawful."

"Throughout Christendom this harsh rule has been exploded, and war is no longer considered as giving a right to enslave captives. But the triumph of humanity has not been universal. The parties to the modern law of nations do not propagate their principles by force, and Africa has not yet adopted them. Throughout the whole of that immense continent, so far as we know its history, it is still the law of nations that prisoners are slaves. Can those who have themselves renounced this law be permitted to participate in its effects by purchasing the beings who are its victims? Whatever might be the answer of the moralist to this question, a jurist must search for its legal solution in those principles of action which are sanctioned by the usages, the national acts, and the general assent of that portion of the world of which he considers himself as a part, and to whose law the appeal is made. If we resort to this standard as the test of international law, the question, as has already been observed, is decided in favour of the legality of the trade."

The court laid it down as a settled principle, that as the law forbids American citizens to engage in the African slave trade, so they could not use the flag of another nation, though that such use was practised was a matter of history. And because no Portuguese owner appeared for the negroes ordered to be given up to the Portuguese consul the court presumed that the real owners were Americans under Portuguese colours, and therefore ordered that the negroes should be placed in the hands of the marshal to be sent to Africa, the same as those taken from the American ship. And with regard to those taken from Spanish vessels, and given up, the point on which the whole argument turns, Chief Justice Marshall says, "Whether, on this proof, Africans brought into the United States under the various circumstances belonging to this case, ought to be restored or not, is a question on which much difficulty has been felt. It is unnecessary to state the views in support of the affirmative or negative answer to it, because the court is divided on it, and consequently no principle is settled. So much of the decree of the circuit court, as directs the restitution to the Spanish claimant of the Africans found on board the Antelope, when she was captured by the Arroganta, is affirmed."

I have taken the trouble, said Mr. Adams, to get copies of the opinions of the district and circuit courts in this case, for the purpose of examining, and showing to this court, the exact state of the question, as it was left by this court in the case of the Antelope. And it appears that the decision of the circuit court was affirmed solely because the supreme court was divided, and as a majority is required to reverse a decision, the case stood in fact solely on the decision of the circuit judge. And therefore judge Marshall says, "no principle is settled." The supreme court, however, reversed the decision that the different classes should be designated by lot, and ordered the Spanish consul to make proof of the identity of those they claimed as slaves to the satisfaction of the circuit court.

I have, said Mr. Adams, the opinions of the district and circuit courts, which I have taken the pains to have copied from the files of this court, for the purpose of throwing additional light on the real bearings of that important case. I will read from the opinion of Judge Davies of the district court, February 21, 1821. After reciting the several claims or libels of Captain Jackson, John Smith, the Spanish and Portuguese consuls, and the district attorney, the judge first considers the character of the capturing vessel, and then of the Antelope. Of the latter, which was claimed as Spanish property, he says,

"A variety of decisions in the Supreme Court of the United States, establish the principle that upon a piratical or illegal capture, the property of the original owners cannot be forfeited for the misconduct of the captors, in violating the municipal laws of the country where the vessel seized by them is carried—5 Wheaton 338. If, then, the Antelope is subjected to forfeiture, or the Africans found on board of her be entitled to their freedom, it must be because of some act committed by the Spanish proprietors of the vessel, or some circumstances existing antecedent to the capture. The attention of the Court has been called to the act of 1818, on the subject of the slave-trade. Whatever may be the case with regard to the captors, most certainly there does not appear in evidence any circumstances connected with the vessel, or the Africans found on board of her, previous to the capture, which brings either the one or the other within the provisions of that act, or of any other law of the United States, except as it regards the Africans taken out of the American vessel by the Arroganta."

"But it is contended on the authority of some recent decisions in the British Admiralty Court, that Africans are to be considered free until it

is shown that they are slaves; and that the burthen of proof is with those who set up a claim to them. This doctrine may be correct in England, since there, negroes have always been held to be free, except in cases where they have voluntarily entered into engagements binding them to service. And yet, inconsistent as it may be, slavery has been recognized in all the British American colonies."

"But it does not appear to me that I can admit the proposition, in the form and manner in which it is here presented. The period is not remote, when all the governments of Europe, and the several states of the United States when they were British colonies, and many of them after they became independent, recognized slavery. But a few years have elapsed since the government of the United States permitted her citizens to engage in the African slave-trade. Under such a state of things, it appears to me that this Court is bound to consider the unfortunate Africans, when found in the possession of the subjects or citizens of any government which has heretofore permitted this traffic, as slaves, until the contrary be shown."

"That this trade, however inhuman it may be, and however obnoxious it is to every benevolent feeling, must now be considered legal, notwithstanding its injustice, until it is shown to have been prohibited by that government whose subjects claim the right of engaging in it."

"When it shall have been ascertained that the different governments of the civilized world have consented to abolish the trade, or after it shall have been ascertained that any particular state or government has determined to abolish it, this court would consider the claim set up in favour of the Africans in the situation of those before the court in a different point of view. In the one case they would, I think, be CONSIDERED FREE, until the contrary was shown; in the other case, they would be so considered when they were found in the possession of the subjects or citizens of that government which had determined to abolish the trade."

"If it could be made to appear to this court, that at the time these Africans were taken from the possession of the Spanish and Portuguese claimants, Spain and Portugal had agreed to prohibit their subjects from engaging in this trade, this court, I think, would be bound to restore to these people their liberty."

"It is true this court will not enforce the municipal laws of another country, by punishing the subjects of that country for the infraction of them; but this court would feel bound to respect the rights of Africans, no less than it would respect the rights of any other class of persons. Spain, however, had not at the time I am speaking of abolished the trade to Africa, although she had placed it under certain restrictions."

Thus it will be seen that Judge Davies places his decision on the ground that the nation to which the vessel belonged had not abolished the trade at the time of the capture; but, "if it could be made to appear" that the nation had then agreed to abolish the trade, a different view would be taken, and the court will consider the Africans free until the contrary is shown. I have also, said Mr. Adams, the opinion of Judge Johnson, in the circuit court, which is different in some respects from that of Judge Davies, but which entirely concurs with it on this point. I will not now take the time of the court in reading what Judge Johnson says. It is among the records of this court, and your honours will, I trust, consult it.

I said when I began this plea, that my final reliance for success in this case was on this court as a court of JUSTICE, and in the confidence this fact inspired, that in the administration of justice, in a case of no less importance than the liberty and the life of a large number of persons, this court would not decide but on a due consideration of all the rights, both natural and social, of every one of these individuals. I have endeavoured to show that they are entitled to their liberty from this court. I have avoided, purposely avoided, and this court will do justice to the motive for which I have avoided, a recurrence to those first principles of liberty which might well have been invoked in the argument of this cause. I have shown that Ruiz and Montes, the only parties in interest here, for whose sole benefit this suit is carried on by the government, were acting at the time, in a way that is forbidden by the laws of Great Britain, of Spain, and of the United States, and that the mere signature of the governor-general of Cuba ought not to prevail over the ample evidence in the case that these negroes were free, and had a right to assert their liberty. I have shown that the papers in question are absolutely null and insufficient as passports for persons, and still more invalid to convey or prove a title to property.

In closing his speech of seven hours, he said,

May it please your honours:—On the 7th of February, 1804, now more than thirty-seven years ago, my name was recorded on the rolls of this court as one of its attorneys and counsellors—and five years afterwards, I appeared before this court as one of its attorneys and counsellors, five years afterwards I appeared before this court in an important cause. Since that time I have never appeared before this court until the present occasion, and now I stand before this court again. It is the same court, but not the same judges. At that time these seats were filled by honoured men indeed, but not the same. They are all changed. Then there was Chief Justice Marshall, and Judges Cushing, and Chase, Washington, and Johnson, and Livingston and Todd. Where are they? Where is that able statesman and learned lawyer, who was my associate counsel in the cause, Robert Goodloe Harper? Where is the eloquent counsellor, so long the pride of Maryland and the American bar, who was the opposing counsel, Luther Martin? Where is the excellent clerk of that day, whose name has been inscribed on the shores of Africa as a monument of his abhorrence of the African Slave Trade, Elias B. Caldwell? Where is the marshal? Where are the criers of the court? Where is one of the very judges before whom I commenced my argument in the present cause? Gone—gone; all gone. Gone from the services which they rendered to their country, to appear before a tribunal where they must answer for all the deeds done in the body. From the excellent characters which they sustained, so far as I have the means of knowing, I fondly hope that they have gone to receive the rewards of eternal blessedness. In taking, as I suppose, my final leave of this bar and of this honourable court, I can only ejaculate a fervent petition to heaven that every member of it may go to his final account with as little to answer for as these illustrious dead, and that you may every one receive the sentence—"Well done, good and faithful servants, enter into the joy of your Lord."

I need not say that a crowded audience was deeply affected by this solemn close.

J. L.

Printed by WILLIAM JOHNSTON, and RICHARD BARNETT, of 13, Mark Lane in the Parish of All Hallows Staining, and City of London: and Published by LANCELOT WILD, of 18, Catherine Street, Strand, in the Parish of St. Mary-le-strand and City of Westminster, at 13, Catherine Street, Strand, as aforesaid. Sold by W. EVERETT, 16, Finch Lane, Cornhill. May 5th, 1841.